

**EXHIBITS F-L OF DECLARATION OF NEIL J. OXFORD
IN SUPPORT OF THE MEMORANDUM OF
MOVANTS IN OPPOSITION TO THE MOTION IN LIMINE OF BARCLAYS
CAPITAL INC. FOR AN ORDER EXCLUDING THE EXPERT TESTIMONY OF
DANIEL MCISAAC RELATING TO EXCHANGE TRADED
DERIVATIVES (“ETDs”) AND ETD MARGIN**

EXHIBIT F

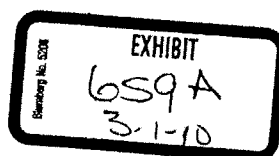
From: Gilberg, David
Sent: Friday, September 19, 2008 10:09 AM
To: 'rwasserman@cftc.gov'; 'jlawton@cftc.gov'; 'nmarkman@cftc.gov'
Cc: Raisler, Kenneth <Raislerk@sullcrom.com>
Subject: Barclays Letter
Attach: Document.pdf;NY12532-#424791-v6-
CFTC_LETTER_RE_LBI.DOC;DVComparison_NY12532-#424791-v3-
CFTC_LETTER_RE_LBI-NY12532-#424791-v6-CFTC_LETTER_RE_LBI.rtf

Attached is the final version of our letter regarding the Part 190 issues in connection with the Barclays/Lehman transaction. We have also attached a blackline against the version we sent yesterday and a Word version of the unsigned letter. The revisions reflect the comments we received from Natalie, as well as the change in structure we discussed with John this morning, involving a transfer of the purchased Lehman assets into a newly organized Delaware limited liability company. Please let us know if you have any questions. In view of the timing of the bankruptcy proceeding and the scheduled closing of the transaction, we would very much appreciate receiving your letter of confirmation this afternoon.

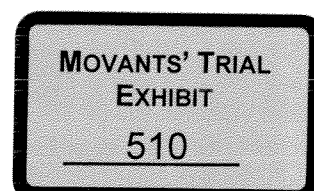
Thanks very much.

David J. Gilberg
Sullivan & Cromwell LLP
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Fax: 212-558-3588
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September 19, 2008

Ananda K. Radhakrishnan,
Director, Division of Clearing and Intermediary Oversight,
Commodity Futures Trading Commission,
Three Lafayette Centre,
1155 21st Street, N.W.,
Washington, D.C. 20581.

Re: Request for Authorization to Transfer Accounts

Dear Mr. Radhakrishnan:

On behalf of our client, Barclays Capital, Inc. ("Barclays"), a registered futures commission merchant ("FCM"), this is to request that you, acting in your capacity as Director of the Division of Clearing and Intermediary Oversight ("Division"), authorize the transfer, in the event that Lehman Brothers, Inc. ("LBI") were to commence a case under the Securities Investor Protection Act of 1970 ("SIPA"), the Bankruptcy Code or otherwise, of "accounts that are not routinely eligible for transfer under section 764(b) of the Bankruptcy Code by reason of Commission Regulation 190.06(e)."

LBI's parent company, Lehman Brothers Holdings, Inc. ("LBHI"), has filed a voluntary petition in bankruptcy pursuant to Chapter 11 of the U.S. Bankruptcy Code, Chapter 11 Case No. 08-13555 (JMP). On September 16, 2008, LBHI, LBI, LB 745 LLC and Barclays entered into an Asset Purchase Agreement (the "Agreement") providing for the sale to Barclays of certain of the assets of LBI, including but not limited to the customer accounts maintained by LBI in its capacity as an FCM. Our client anticipates that LBI may seek relief under SIPA prior to the consummation of the transactions contemplated by the Agreement (the "Transactions") and that a trustee of LBI may decide to consummate the Transactions. In that event, we anticipate that the FCM business of LBI will initially be held in a newly formed Delaware limited liability company (the "LLC"), which will be a wholly owned subsidiary of Barclays. This

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Division of Clearing and Intermediary Oversight

-2-

structure will effectively require the LLC to succeed to LBI's FCM registration in connection with the LLC's assumption of the transferred FCM business. It is in anticipation of the possibility of the Transactions taking place that we are requesting the authority to transfer the registration and the customer accounts to the LLC.

Pursuant to the Agreement, LBI will transfer all customer accounts, including one hundred percent of each customer's net equity, as reflected on the books of LBI, to the LLC. Some of these accounts are accounts that contain no open commodity positions and accounts that are in deficit, within the meaning of Regulations 190.06(e)(1)(iv) and (v), 17 C.F.R. §§ 190.06(e)(1)(iv) and (v), respectively. Other accounts may be "house accounts," as defined in Commission Regulation 190.01(w); see 17 C.F.R. §§ 190.06(e)(1)(i)¹. We understand that LBI has sufficient segregated and secured amount funds, as well as sufficient regulatory capital, pursuant to the provisions of the Commodity Exchange Act and the Commission's Regulations thereunder.

Section 764(b) of the Bankruptcy Code, 11 U.S.C. §764(b), provides in relevant part that "the trustee may not avoid a transfer made before five days after the order for relief, if such transfer is approved by the Commission by rule or order, either before or after such transfer, and if such transfer is a transfer of a commodity contract ... carried by or through the debtor on behalf of a customer, and of any cash, securities, or other property margining or securing such commodity contract" Regulation 190.06(e)(1) provides that, "subject to the requirements of paragraph (e)(2) ... all accounts are eligible for transfer after the filing date pursuant to Section 764(b) of the Bankruptcy Code, except ... (i) House accounts ... of the debtor ... ; (iv) [a]ccounts which contain no open commodity contracts; or (v) [a]ccounts which are in deficit." Moreover, Regulation 190.06(e)(2) prohibits the transfer, in respect of any eligible account, of property whose value "would exceed the funded balance of such account based on available information as of the close of business on the business day immediately preceding transfer" less the value of prior transfers.

There are therefore three specific types of accounts that LBI intends to transfer that are addressed in Regulation 190.06: (1) house accounts; (2) accounts that are in deficit, and (3) accounts that have no open commodity contracts. These three

¹ We note that the positions in the house accounts may have been liquidated by the time the transfer occurs. As a result, it is possible that there will be no house accounts transferred. Nevertheless, we are including the house accounts within the scope of this request, in the event that those liquidations have not been completed by the time of the transfer.

Commodity Futures Trading Commission
Division of Clearing and Intermediary Oversight

-3-

categories would be ineligible for transfer pursuant to, respectively, Regulation 190.06(e)(1)(iv) and (v).

We note that the fact that an account is not eligible for transfer pursuant to Regulation 190.06(e)(1) does not mean that the transfer of such an account may not be authorized. Regulation 190.06(h)(2) empowers the Commission, "[n]otwithstanding any other provision of" Regulation 190.06, to, "in appropriate cases and to protect the public interest ... [p]ermit transfers of accounts which do not comply with the requirements of" Regulation 190.06. Moreover, Regulation 190.10(d) delegates to the Division Director "all the functions of the Commission set forth in" Part 190 (with an exception not here relevant).

We do not believe there is any basis on which these transfers should be prohibited. As discussed above, in the present case, LBI has sufficient segregated and secured amount funds, and sufficient regulatory capital. The contemplated transfer of one hundred percent of each customer's net equity "should approximate, to the extent possible, the distribution which should be made in bankruptcy,"² which the Commission identified as the purpose of Regulation 190.06(e)(2). Moreover, the transfer of these accounts is an integral part of the transfer of the majority of LBI's other accounts that *are* eligible to be transferred pursuant to Regulation 190.06(e). The Commission's Regulations strongly encourage such transfers where possible. *See* Regulation 190.02(e)(1) (The trustee for a commodity broker must immediately use its best efforts to effect a transfer in accordance with §§190.06 (e) and (f) ...).

We therefore respectfully request your confirmation, acting on behalf of the Commission pursuant to delegated authority that, in the circumstances of this case noted above, the transfer of accounts that are not "eligible" within the meaning of Regulation 190.06(e)(1) are nonetheless authorized pursuant to Regulation 190.06(h)(2), and that the LLC may succeed to the existing FCM registration of LBI. We also note that, during a limited transition period following the date of the transfer of accounts from LBI, the LLC will be completing certain aspects of the transfers, such as the form of statements sent to customers, books and records and the manner in which reports are submitted, but that these aspects likely will not be completed on the date of transfer.

² *See* 48 Fed. Reg. 8716, 8732 (March 1, 1983) (discussing adoption of Regulation 190.06(e)(2)).

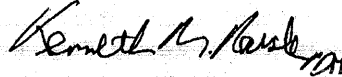
Commodity Futures Trading Commission
Division of Clearing and Intermediary Oversight

-4-

If you have any questions regarding this request, please call the undersigned at (212) 558-4675.

Thank you for your assistance.

Sincerely,



Kenneth M. Raisler

cc: John Lawton
(Division of Clearing and Intermediary Oversight)

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BCI-SC00009677

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September 19, 2008

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structure will effectively require the LLC to succeed to LBI's FCM registration in connection with the LLC's assumption of the transferred FCM business. It is in anticipation of the possibility of the Transactions taking place that we are requesting the authority to transfer the registration and the customer accounts to the LLC.

Pursuant to the Agreement, LBI will transfer all customer accounts, including one hundred percent of each customer's net equity, as reflected on the books of LBI, to the LLC. Some of these accounts are accounts that contain no open commodity positions and accounts that are in deficit, within the meaning of Regulations 190.06(e)(1)(iv) and (v), 17 C.F.R. §§ 190.06(e)(1)(iv) and (v), respectively. Other accounts may be "house accounts," as defined in Commission Regulation 190.01(w); see 17 C.F.R. §§ 190.06(e)(1)(i)¹. We understand that LBI has sufficient segregated and secured amount funds, as well as sufficient regulatory capital, pursuant to the provisions of the Commodity Exchange Act and the Commission's Regulations thereunder.

Section 764(b) of the Bankruptcy Code, 11 U.S.C. §764(b), provides in relevant part that "the trustee may not avoid a transfer made before five days after the order for relief, if such transfer is approved by the Commission by rule or order, either before or after such transfer, and if such transfer is a transfer of a commodity contract ... carried by or through the debtor on behalf of a customer, and of any cash, securities, or other property margining or securing such commodity contract" Regulation 190.06(e)(1) provides that, "subject to the requirements of paragraph (e)(2) ... all accounts are eligible for transfer after the filing date pursuant to Section 764(b) of the Bankruptcy Code, except ... (i) House accounts ... of the debtor ...; (iv) [a]ccounts which contain no open commodity contracts; or (v) [a]ccounts which are in deficit." Moreover, Regulation 190.06(e)(2) prohibits the transfer, in respect of any eligible account, of property whose value "would exceed the funded balance of such account based on available information as of the close of business on the business day immediately preceding transfer" less the value of prior transfers.

There are therefore three specific types of accounts that LBI intends to transfer that are addressed in Regulation 190.06: (1) house accounts; (2) accounts that are in deficit, and (3) accounts that have no open commodity contracts. These three categories would be ineligible for transfer pursuant to, respectively, Regulation 190.06(e)(1)(iv) and (v).

We note that the fact that an account is not eligible for transfer pursuant to Regulation 190.06(e)(1) does not mean that the transfer of such an account may not be authorized. Regulation 190.06(h)(2) empowers the Commission, "[n]otwithstanding any

¹ We note that the positions in the house accounts may have been liquidated by the time the transfer occurs. As a result, it is possible that there will be no house accounts transferred. Nevertheless, we are including the house accounts within the scope of this request, in the event that those liquidations have not been completed by the time of the transfer.

other provision of" Regulation 190.06, to, "in appropriate cases and to protect the public interest ... [p]ermit transfers of accounts which do not comply with the requirements of" Regulation 190.06. Moreover, Regulation 190.10(d) delegates to the Division Director "all the functions of the Commission set forth in" Part 190 (with an exception not here relevant).

We do not believe there is any basis on which these transfers should be prohibited. As discussed above, in the present case, LBI has sufficient segregated and secured amount funds, and sufficient regulatory capital. The contemplated transfer of one hundred percent of each customer's net equity "should approximate, to the extent possible, the distribution which should be made in bankruptcy,"² which the Commission identified as the purpose of Regulation 190.06(e)(2). Moreover, the transfer of these accounts is an integral part of the transfer of the majority of LBI's other accounts that *are* eligible to be transferred pursuant to Regulation 190.06(e). The Commission's Regulations strongly encourage such transfers where possible. *See* Regulation 190.02(e)(1) (The trustee for a commodity broker must immediately use its best efforts to effect a transfer in accordance with §§190.06 (e) and (f) ... ").

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² *See* 48 Fed. Reg. 8716, 8732 (March 1, 1983) (discussing adoption of Regulation 190.06(e)(2)).

If you have any questions regarding this request, please call the
undersigned at (212) 558-4675.

Thank you for your assistance.

Sincerely,

Kenneth M. Raisler

cc: John Lawton
(Division of Clearing and Intermediary Oversight)

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<DRAFT> September

<19>19, 2008

Ananda K. Radhakrishnan,
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Commodity Futures Trading Commission,
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Pursuant to the Agreement, LBI will transfer all customer accounts, including one hundred percent of each customer's net equity, as reflected on the books of LBI, to ~~<Barclays>~~ **the LLC**. Some of these accounts are ~~<"house accounts," as defined in Commission Regulation 190.01(w)>~~ ~~<-->~~ accounts that contain no open commodity positions and accounts that are in deficit, within the meaning of Regulations 190.06(e)(1)(~~<i>~~, ~~<iv>~~) and (v), 17 C.F.R. §§ 190.06(e)(1)(~~<i>~~, ~~<iv>~~) and (v), respectively. **Other accounts may be "house accounts," as defined in Commission Regulation 190.01(w); see 17 C.F.R. §§ 190.06(e)(1)(i)**¹. We understand that ~~<--~~ ~~in the present case;~~ LBI has sufficient segregated and secured amount funds, as well as sufficient regulatory capital, pursuant to the provisions of the Commodity Exchange Act and the Commission's Regulations thereunder.

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We note that the fact that an account is not eligible for transfer pursuant to Regulation 190.06(e)(1) does not mean that the transfer of such an account may not be authorized. Regulation 190.06(h)(2) empowers the Commission, "[n]otwithstanding any other provision of" Regulation 190.06, to, "in appropriate cases and to protect the public interest ... [p] ermit transfers of accounts which do not comply with the requirements of" Regulation 190.06. Moreover, Regulation 190.10(d) delegates to the Division Director "all the functions of the Commission set forth in" Part 190 (with an exception not here relevant).

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transfer in accordance with §§190.06 (e) and (f) ...”).

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If you have any questions regarding this request, please call the undersigned at
(212) 558-4675.

Thank you for your assistance.

Sincerely,

Kenneth M. Raisler

cc: John Lawton
(Division of Clearing and Intermediary Oversight)

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BCI-SC00009685

EXHIBIT G

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x
In Re: Chapter 11
5 LEHMAN BROTHERS Case No. 08-13555 (JMP)
6 HOLDINGS, INC., et al., (Jointly Administered)
7 -----)

8 * * * HIGHLY CONFIDENTIAL * * *

9 DEPOSITION OF ANTHONY SAUNDERS

10 New York, New York

11 Monday, February 8, 2010
12
13
14
15
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17
18

19 Reported by:

20 FRANCIS X. FREDERICK, CSR, RPR, RMR

21 JOB NO. 28244
22
23
24
25

1 A. SAUNDERS - CONFIDENTIAL

2 they might not have opened on the 22nd. In my
3 opinion.

4 Q. I think you answered something
5 different than I asked. I'm not sure. Let me
6 just try again. The salutary effect which you
7 reference in your report that the transaction
8 had on the marketplace was an effect that was
9 accomplished in connection with the
10 Lehman/Barclays transaction by the court's
11 approval on September 19th and into the early
12 morning hours of September 20th, correct?

13 A. Perhaps I'm missing what you're
14 saying. I'm saying the salutary effect is the
15 effect on the market once it opens on a
16 Monday. The market is closed on the weekend.
17 So I'm not quite sure I understand what you're
18 trying to get at.

19 Q. Okay. I understand our disconnect
20 here. Let me try again.

21 I appreciate the market is not
22 opened on the weekend so there cannot be any
23 market impact on the weekend. But what I'm
24 saying is that when the market opened on
25 Monday, the salutary effect that the

1 A. SAUNDERS - CONFIDENTIAL

2 transaction -- the Lehman/Barclays transaction
3 had was as a consequence of the court's
4 approval on the 19th and the 20th, correct?

5 A. I believe as a financial economist
6 that Goldman or Morgan Stanley might not have
7 opened for business on the Monday without the
8 Lehman deal going through. If that's not
9 salutary effect, I don't know what is because
10 if they'd gone down everybody would have gone
11 down.

12 Q. I'm not contesting for purposes of
13 my question whether or not you're correct in
14 your conclusion about it having a salutary
15 effect or not. I'm simply trying to
16 understand what was it that caused the
17 salutary effect and that was the approval by
18 the court, wasn't it?

19 A. Yes. That Barclays was going to
20 take over LBI.

21 Q. Okay. Now, with regard -- just
22 trying to understand the timing of things for
23 the week so we can come back and take it
24 apart. If the transaction between Lehman and
25 Barclays had been approved on the 19th into

1 A. SAUNDERS - CONFIDENTIAL

2 the early morning hours of the 20th but had
3 closed on, say, Wednesday, the 24th, just to
4 get the paperwork done, would that have had
5 any adverse impact on the market?

6 A. Well, I think Barclays had
7 committed or pre-committed to do the deal so I
8 think the markets would have known rationally
9 that the deal would have been completed on the
10 23rd or 24th.

11 Q. Right.

12 A. I mean, obviously, the longer the
13 time between the approval and the actual
14 conclusion of the deal then there's more
15 uncertainty. But you asked me like two days
16 later would it make much of an effect, I would
17 say no.

18 Q. Could you look at page -- pardon
19 me -- paragraph 77 of your report, sir. And
20 right at the bottom of the page there is a
21 quote, the last quote referencing the
22 September 19th hearing. And I'd like just to
23 direct your attention to the last sentence in
24 the quote where it says, "He..." meaning Mr.
25 McDade -- do you have it, sir? I'm sorry.

EXHIBIT H

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS

Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al., (Jointly Administered)

9
10 Debtors.
11
12
13
14 -----X

15 DEPOSITION OF ANTHONY J. LEITNER

16 New York, New York

17 February 25, 2010
18
19
20
21
22

23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

25 JOB NO. 28367

Page 2

February 25, 2010

Deposition of ANTHONY J. LEITNER,
held at the law offices of Hughes,
Hubbard & Reed, LLP, One Battery Park
Plaza, New York, New York, before Kathy
S. Klepfer, a Registered Professional
Reporter, Registered Merit Reporter,
Certified Realtime Reporter, Certified
Livenote Reporter, and Notary Public of
the State of New York.

Page 3

A P P E A R A N C E S:

JONES DAY, LLP
Attorneys for Lehman Brothers, Inc.
222 East 41st Street
New York, New York 10017-6702

BY: KELLY A. CARRERO, ESQ.

BOIES, SCHILLER & FLEXNER, LLP
Attorneys for Barclays Capital
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4th Floor
Albany, New York 12207

BY: TRISH BLOOMER, ESQ.

QUINN, EMANUEL, URQUHART, OLIVER & HEDGES, LLP
Attorneys for the Creditors Committee
51 Madison Avenue, 22nd Floor
New York, New York 10010
BY: ROBERT K. DAKIS, ESQ.

Page 4

A P P E A R A N C E S: (Cont'd.)

HUGHES, HUBBARD & REED, LLP
Attorneys for the SIPA Trustee
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New York, New York 10004-1482
BY: NEIL J. OXFORD, ESQ.
WILLIAM MAGUIRE, ESQ.
STEPHEN LUGER, ESQ.
AMINA HASSAN, ESQ.

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A. Leitner
ANTHONY J. LEITNER, called as a
witness, having been duly sworn by a Notary
Public, was examined and testified as
follows:
EXAMINATION BY
MR. OXFORD:
Q. Good morning, Mr. Leitner. We met off
the record. As you know my name is Neil Oxford.
I'm with the law firm of Hughes, Hubbard & Reed
and we represent the SIPA Trustee in this
matter.

Have you been deposed before, sir?

A. Yes.

Q. In which matters have you been
deposed?

A. It was a litigation involving a bunch
of broker-dealers suing other broker-dealers
several years ago on issues relating to the
Federal Margin Rules.

Q. Who were the plaintiffs in this case,
sir?

A. There were six or seven and I do not
remember who they all were.

Q. Were you engaged by the plaintiffs or

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<p>1 A. Leitner 2 the -- 3 A. Yes. 4 Q. -- defendants? 5 Who engaged you, sir? 6 A. I was originally approached by a 7 lawyer in California and then I was dealing with 8 a lead lawyer named -- I forget his name, 9 Richard something, down in Washington. This was 10 so many years ago I've forgotten. 11 Q. Can you give me an approximate 12 timeframe for the year or so? 13 A. 1994, '95. 14 Q. You were still employed by Goldman at 15 that time, sir? 16 A. No, I was -- I was a consultant to 17 Goldman Sachs and I am a consultant. 18 Q. Did you testify at trial in that case, 19 sir? 20 A. No. 21 Q. Have you testified on any other 22 occasions? 23 A. No. 24 Q. Welcome to your second deposition. 25 This is not intended to be a marathon,</p>	<p>1 A. Leitner 2 so if you need a break at any time, please just 3 let me know. 4 A. Thank you. 5 Q. If you don't understand any of my 6 questions, I'll be happy to rephrase them, so 7 please ask me to do that. 8 A. You'll have to speak up because I have 9 hearing loss in one year. 10 Q. Okay. Did you hear my last question, 11 sir? What I said was I'll be happy -- in 12 addition to speaking up, I'll be happy to 13 rephrase questions if you don't hear them for 14 that -- if you don't understand them for that 15 reason. 16 A. Thank you. 17 Q. Have you seen the expert stipulation 18 in this case, sir, that was negotiated between 19 Barclays and the movants? 20 A. I believe I did. 21 Q. And you understand that Barclays is 22 required to produce a complete statement of all 23 your opinions and the bases for them? 24 A. Yes. 25 (Exhibit 652, Report of Anthony J.</p>
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<p>1 A. Leitner 2 Leitner, marked for identification, as of 3 this date.) 4 Q. I have marked as Exhibit 652, sir, 5 your report, which I believe is dated January 8, 6 2010? 7 A. Yes. 8 Q. Does that, sir, include all of your 9 opinions in this case? 10 A. All the opinions I was asked to give, 11 yes. 12 Q. Do you have opinions in this case that 13 you were not asked to give? 14 A. On what topic? 15 Q. Any topic, sir. 16 MS. BLOOMER: Objection to the form of 17 the question. 18 A. I was only asked to focus on the 19 issues that I was asked to opine on, and I 20 frankly have not formed a specific opinion on 21 any other matter. 22 Q. Did you form a general opinion on any 23 other matter relating to this case, sir, that is 24 not contained in your report? 25 MS. BLOOMER: Objection to the form of</p>	<p>1 A. Leitner 2 the question. 3 A. I'm not sure I would know how to 4 respond to that because I have a general 5 understanding of what happened here, but I have 6 not formed any particular opinions other than on 7 the issue of the collateral, which I think we 8 defined as posted collateral, that is the prime 9 topic of my report. 10 Q. You understand that discovery in this 11 case, sir, has continued past January 8, 2010, 12 correct? 13 A. Yes. 14 Q. Have you read any of the depositions 15 that have been taken subsequent to the signing 16 of your report? 17 A. Yes. 18 Q. Which ones have you signed, please, 19 sir? 20 MS. BLOOMER: Object to the form of 21 the question. 22 Q. Which ones have you read, sir? 23 A. The deposition of Mr. Rosen, of Mr. 24 Dzeimian I believe are the ones I focused on. 25 Q. I'll represent to you --</p>

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<p>1 A. Leitner 2 A. And Elizabeth James. 3 Q. I'll represent to you, sir, that Mr. 4 Dzeimian has not yet been deposed. 5 A. Then I would change my answer to refer 6 to his declaration and not his deposition. 7 Q. Thank you. Did you read Jonathan 8 Hughes' deposition, sir? 9 A. I did. Thank you for reminding me. I 10 read portions of his deposition. 11 Q. Do you understand that he was deposed 12 over the course of two days, sir? 13 A. Yes. 14 Q. Did you read portions of both of those 15 days or just one of those days? 16 A. Just the first day. 17 Q. Did you read Mr. Clark's deposition? 18 A. No. 19 Q. Did you know, sir, that Mr. Clark was 20 deposed? 21 A. I believe I was informed that he was. 22 Q. And did you read Sharon Blake's 23 deposition? 24 A. No. 25 Q. Did you know that Ms. Blake was</p>	<p>1 A. Leitner 2 deposed? 3 A. Yes. 4 Q. Should, during the course of your 5 questioning, you recall an additional deposition 6 that you read, if you would please just -- you 7 can interrupt my questions to answer and 8 supplement. 9 MS. BLOOMER: I'm going to object to 10 the form of the question. Just to clarify, 11 you mean since he filed his report, that's 12 the scope of your question? 13 MR. OXFORD: Yes. Yes. 14 A. Okay, since I filed my report, I also 15 read portions of Mr. Kobak's deposition and 16 reread portions of Mr. King's deposition. 17 That's all I can recall. 18 Q. Did you read exhibits that were 19 referenced in those depositions, sir? 20 A. I did refer to some of the exhibits 21 referenced there. Many of them had been -- many 22 of them I had reviewed, you know, prior to the 23 deposition, so I was already familiar with that. 24 Q. Did you review any additional 25 materials other than those you have just</p>
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<p>1 A. Leitner 2 testified to since you signed your report on 3 January 8? 4 A. Not beyond the materials that I 5 believe I identified in the exhibit to my 6 report. 7 Q. And you're referring, sir, to Schedule 8 2 -- sorry, Schedule 1 to your report, sir? 9 A. Yes. 10 Q. Did any of the materials that you 11 reviewed subsequent to the filing of your 12 report, sir, did they change your opinion in any 13 way? 14 A. On the contrary. They reinforced my 15 opinion. 16 Q. Could you describe for me generally 17 how they reinforced your opinion? 18 A. Yes, I can describe generally how they 19 reinforced my opinion. 20 Q. Please do so. 21 A. My report, and I'll speak just 22 generally about the conclusions in my report, 23 are based in large measure on the lack of 24 information and general volatility and 25 uncertainty relating to the time period during</p>	<p>1 A. Leitner 2 which Lehman was undergoing its financial 3 difficulties leading up to the conclusion and 4 closing of this transaction. 5 The one additional element that was -- 6 that came out of reviewing those materials was 7 the degree of operational risk associated with 8 the transaction, which was, in my view, simply a 9 subset of the other risks referred to in my 10 opinion that would have been obvious to Barclays 11 before they signed the APA and continued through 12 the life of the transaction. 13 Q. Can you describe for me what you mean 14 by "the degree of operational risk associated 15 with the transaction"? 16 A. Yes, I can. 17 Q. Would you please do so? 18 A. Lehman Brothers had derivative 19 positions at various brokers and at the Options 20 Clearing Corp., a clearing corporation that they 21 were members of, and at through affiliate 22 companies at foreign exchanges. A transfer of 23 positions is not something that can be 24 accomplished even in the best of circumstances 25 overnight, and not without a lot of preparation,</p>

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<p>1 A. Leitner</p> <p>2 and the weekend over which this transaction was</p> <p>3 concluded added to the complication because it's</p> <p>4 what's called an expiration weekend at the</p> <p>5 Options Clearing Corp. So all of the options</p> <p>6 that were expiring at that time had to be</p> <p>7 settled.</p> <p>8 Those settlement obligations all</p> <p>9 became obligations of Barclays on November 1.</p> <p>10 Barclays also had to deal with the fact that</p> <p>11 some of Lehman's customers were not coming over</p> <p>12 to Barclays. The customer transfers, by the</p> <p>13 way, had their own issues, but just focusing on</p> <p>14 the clearing side of the Lehman business that</p> <p>15 Barclays was acquiring, and so although Barclays</p> <p>16 had as of Monday morning, as I understand it,</p> <p>17 all of Lehman's obligations to the Option</p> <p>18 Clearing Corp., it took them several days to set</p> <p>19 up the process for being able to manage the</p> <p>20 clearance and settlement of these transactions</p> <p>21 and figure out how to do that.</p> <p>22 And so that's what I meant by</p> <p>23 "operational risk."</p> <p>24 Q. Which Lehman customers were not coming</p> <p>25 over to Barclays, sir?</p>	<p>1 A. Leitner</p> <p>2 A. I don't know that I've ever known</p> <p>3 that. You asked me which customers, and you</p> <p>4 meant by name, I assume.</p> <p>5 Q. Well, can you categorize them in any</p> <p>6 way, sir?</p> <p>7 A. Other than -- not other than as</p> <p>8 customers that for some reason, which I don't</p> <p>9 completely understand, remained at Lehman</p> <p>10 Brothers.</p> <p>11 Q. Do you know which customers did go to</p> <p>12 Barclays?</p> <p>13 A. Yes.</p> <p>14 Q. Which customers went to Barclays, sir?</p> <p>15 A. A group of customers that were</p> <p>16 generally categorized as PIM customers is what I</p> <p>17 recall.</p> <p>18 Q. What's a PIM customer, sir?</p> <p>19 A. My understanding is that "PIM" stands</p> <p>20 for private investment management.</p> <p>21 Q. And what does that mean to you, sir?</p> <p>22 MS. BLOOMER: Objection.</p> <p>23 A. I can only describe it in terms of</p> <p>24 what it means to me in general terms and based</p> <p>25 on my experience in the business, although it</p>
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<p>1 A. Leitner</p> <p>2 might not be exactly what -- how they</p> <p>3 interpreted it here.</p> <p>4 Q. Did you ask anybody, sir, what type of</p> <p>5 customers were going to Barclays and which type</p> <p>6 of customers weren't?</p> <p>7 A. No.</p> <p>8 Q. What is the basis for your testimony</p> <p>9 that PIM customers were going to Barclays?</p> <p>10 A. The basis is that it's referred to in</p> <p>11 the testimony of some of the witnesses.</p> <p>12 Q. Did you understand, sir, that the</p> <p>13 reason certain types of customers were not going</p> <p>14 to Barclays was because Barclays didn't want</p> <p>15 them?</p> <p>16 A. I'm not aware of that, no. Just to be</p> <p>17 clear, whether Barclays wanted them or not,</p> <p>18 effective on Monday morning, they had the</p> <p>19 clearance risk for all of them.</p> <p>20 Q. Where did they have the clearance risk</p> <p>21 for all of Barclays' customers?</p> <p>22 A. Because, to the extent that</p> <p>23 Barclays -- those customers that did not come</p> <p>24 over had any derivative positions that had been</p> <p>25 at Lehman Brothers, those responsibilities were</p>	<p>1 A. Leitner</p> <p>2 acquired by Barclays effective on Monday.</p> <p>3 Q. Is that opinion you have just</p> <p>4 provided, sir, limited to the OCC, or is it to</p> <p>5 any position at any derivative clearing</p> <p>6 organization or exchange?</p> <p>7 MS. BLOOMER: Objection to the form of</p> <p>8 the question. Vague and ambiguous.</p> <p>9 You can answer the question, if you</p> <p>10 understand.</p> <p>11 A. I think I understand it.</p> <p>12 To the extent that the customer's</p> <p>13 position was being cleared by Lehman and was on</p> <p>14 Lehman's books and records and was assumed by</p> <p>15 Barclays as a result of the transaction, then</p> <p>16 Barclays had the risk to the broker or clearing</p> <p>17 association for those positions. I believe that</p> <p>18 was the understanding.</p> <p>19 Q. And it's your opinion --</p> <p>20 A. With respect to OCC, that would be</p> <p>21 literally true.</p> <p>22 Q. Leaving OCC out of my question, sir,</p> <p>23 is it your understanding that customer positions</p> <p>24 outside of the OCC were being assumed by</p> <p>25 Barclays?</p>

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<p>1 A. Leitner</p> <p>2 A. Can we --</p> <p>3 MS. BLOOMER: Objection to the form of</p> <p>4 the question. You mean exchange-traded</p> <p>5 derivatives positions, right?</p> <p>6 MR. OXFORD: Yes.</p> <p>7 THE WITNESS: I was going to say I</p> <p>8 don't understand --</p> <p>9 Q. Perhaps I can give you a running</p> <p>10 direction, sir. Your report concerns</p> <p>11 exchange-traded derivatives. You told me, "I</p> <p>12 don't have any opinions on matters in this case</p> <p>13 other than exchange-traded derivatives," so to</p> <p>14 the extent my questions are unclear but are</p> <p>15 clarified by this, you can assume that they all</p> <p>16 relate to exchange-traded derivatives.</p> <p>17 A. The -- what I think is important to</p> <p>18 clarify is the difference between customer</p> <p>19 accounts and customer positions that were</p> <p>20 cleared by Lehman Brothers.</p> <p>21 Q. Okay. Please clarify.</p> <p>22 A. To the extent that Lehman had</p> <p>23 responsibility for clearing these customer</p> <p>24 accounts and that was part of the</p> <p>25 exchange-traded derivatives business, then</p>	<p>1 A. Leitner</p> <p>2 Barclays acquired the exchange-traded derivative</p> <p>3 business and, therefore, all of the obligations</p> <p>4 that related to clearing the positions that</p> <p>5 Lehman had.</p> <p>6 And my understanding of the facts is</p> <p>7 that they included positions that were</p> <p>8 proprietary positions and customer positions.</p> <p>9 Q. Could you turn to paragraph 19 of your</p> <p>10 report, sir. It's on page 7.</p> <p>11 MS. BLOOMER: What exhibit number did</p> <p>12 you mark the report?</p> <p>13 MR. OXFORD: I'm sorry. Thank you,</p> <p>14 Trish. I believe I marked it as 652.</p> <p>15 MS. BLOOMER: Thank you. And what</p> <p>16 paragraph?</p> <p>17 MR. OXFORD: 19.</p> <p>18 Q. Do you have that in front of you, sir?</p> <p>19 A. Yes, I do.</p> <p>20 Q. In the first sentence of paragraph 19,</p> <p>21 sir, you set out Barclays' contention as to its</p> <p>22 position with respect to the acquisition of</p> <p>23 exchange-traded derivatives from Lehman, do you</p> <p>24 see that?</p> <p>25 MS. BLOOMER: I object to the</p>
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<p>1 A. Leitner</p> <p>2 characterization of the opinion to the</p> <p>3 extent that was a characterization.</p> <p>4 A. Sorry. You want to read me something</p> <p>5 from --</p> <p>6 Q. Let me ask it this way. Can you read</p> <p>7 the first sentence of paragraph 19 and tell me</p> <p>8 what the basis is for that statement?</p> <p>9 A. "Barclays contends in this litigation</p> <p>10 that, in the midst of the extreme and uncertain</p> <p>11 circumstances surrounding its acquisition of the</p> <p>12 capital markets, brokerage, futures commission</p> <p>13 merchants and other ETD businesses of LBI,</p> <p>14 Barclays entered into to an agreement with LBI</p> <p>15 whereby (i) Barclays would assume all of LBI's</p> <p>16 rights and obligations in and to all</p> <p>17 exchange-traded derivatives, including options</p> <p>18 and futures (hereinafter collectively called</p> <p>19 'ETDs'), held for LBI's account as well as for</p> <p>20 the accounts of LBI affiliates and LBI customers</p> <p>21 at clearing houses or clearing brokers in</p> <p>22 connection with those businesses; and (ii)</p> <p>23 Barclays would receive all LBI's rights with</p> <p>24 respect to the margin and related property</p> <p>25 (including clearing fund deposits) held by the</p>	<p>1 A. Leitner</p> <p>2 clearing houses or clearing brokers in relation</p> <p>3 to the ETDs (whether such property related to</p> <p>4 proprietary positions or customer positions)</p> <p>5 (hereinafter the 'posted collateral')."</p> <p>6 Q. What's the basis for that statement,</p> <p>7 sir?</p> <p>8 A. I would refer you to the pages and</p> <p>9 paragraphs in my report that set forth the basis</p> <p>10 of that opinion. Those paragraphs begin, I</p> <p>11 believe, on page 38, where I recite the opinions</p> <p>12 again, and then on page 40, where I recite the</p> <p>13 analysis. Those paragraphs set forth the basis</p> <p>14 for my opinions.</p> <p>15 Q. Do you agree with me, sir, that margin</p> <p>16 or collateral is something different from an</p> <p>17 exchange-traded derivative?</p> <p>18 MS. BLOOMER: I object to the form of</p> <p>19 the question.</p> <p>20 A. I don't understand the question.</p> <p>21 Different in what respect?</p> <p>22 Q. They're different assets, sir.</p> <p>23 MS. BLOOMER: Object to the form of</p> <p>24 the question.</p> <p>25 A. I don't necessarily agree with that.</p>

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<p>1 A. Leitner</p> <p>2 Q. Will you turn to page 94 of your</p> <p>3 report, please, sir.</p> <p>4 A. Paragraph 94?</p> <p>5 Q. Sorry, paragraph 94. Do you have</p> <p>6 that, sir?</p> <p>7 A. I do.</p> <p>8 Q. Do you see that in the first sentence</p> <p>9 you say, "With respect to posted collateral, in</p> <p>10 normal circumstances, a buyer and seller would</p> <p>11 have reached an agreement about whether the</p> <p>12 transfer of ETDs would come with or without the</p> <p>13 related collateral." Do you see that, sir?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Isn't it correct, sir, that in that</p> <p>16 sentence you treat as different assets the</p> <p>17 exchange-traded derivatives and the collateral</p> <p>18 that may be related to that?</p> <p>19 MS. BLOOMER: Objection to the form of</p> <p>20 the question and the characterization of the</p> <p>21 testimony, that sentence.</p> <p>22 A. I'm sorry, the paragraph -- the</p> <p>23 sentence speaks for itself, so what's the</p> <p>24 question?</p> <p>25 Q. The question, sir, is whether or not</p>	<p>1 A. Leitner</p> <p>2 you believe there is a distinction between an</p> <p>3 exchange-traded derivative and collateral</p> <p>4 related to that derivative?</p> <p>5 MS. BLOOMER: Objection to form.</p> <p>6 Q. Are they the same assets or different</p> <p>7 assets?</p> <p>8 MS. BLOOMER: I object to the form.</p> <p>9 That's a different question.</p> <p>10 A. Here's why I don't understand the</p> <p>11 question. Are you asking me the question from</p> <p>12 an accounting perspective or from a business</p> <p>13 perspective? How are you asking the question?</p> <p>14 Q. From a business perspective, sir.</p> <p>15 A. From a business perspective, certainly</p> <p>16 in the circumstances of this transaction it was</p> <p>17 all part of the business. So you cannot</p> <p>18 separate the derivative from the assets</p> <p>19 supporting that business, and in my view,</p> <p>20 collateral constitutes assets supporting the</p> <p>21 business.</p> <p>22 I think that's the way it is generally</p> <p>23 understood in the industry. Can you separate</p> <p>24 them into two pieces? You cannot have the</p> <p>25 derivative if you -- if collateral is required</p>
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<p>1 A. Leitner</p> <p>2 without posting collateral.</p> <p>3 Q. From a legal perspective, sir, is</p> <p>4 collateral different from an exchange-traded</p> <p>5 derivative?</p> <p>6 MS. BLOOMER: Objection to the form of</p> <p>7 the question. It requires a legal</p> <p>8 conclusion.</p> <p>9 A. An exchange-traded derivative is a</p> <p>10 contract. Collateral is collateral.</p> <p>11 Q. Is that a "yes"?</p> <p>12 MS. BLOOMER: Object to the form of</p> <p>13 the question.</p> <p>14 A. That's the best answer I can give.</p> <p>15 Q. From an accounting perspective, sir,</p> <p>16 is an exchange-traded derivative the same as</p> <p>17 collateral related to an exchange-traded</p> <p>18 derivative?</p> <p>19 MS. BLOOMER: Objection. Beyond the</p> <p>20 scope of the expert's expert testimony and</p> <p>21 knowledge.</p> <p>22 A. I have -- I don't pretend to be an</p> <p>23 expert on the accounting treatment of</p> <p>24 exchange-traded derivatives.</p> <p>25 Q. Do you have any knowledge, sir, as an</p>	<p>1 A. Leitner</p> <p>2 expert who has worked in this area for some 20</p> <p>3 or 30 years, as to what the accounting treatment</p> <p>4 is of exchange-traded derivative contracts and</p> <p>5 the collateral related thereto?</p> <p>6 MS. BLOOMER: Objection. Beyond the</p> <p>7 scope of the expert's testimony and</p> <p>8 knowledge.</p> <p>9 A. I do not have knowledge of the</p> <p>10 accounting treatment of exchange-traded</p> <p>11 derivatives and related collateral for GAAP</p> <p>12 accounting purposes.</p> <p>13 Q. Do you have such knowledge for any</p> <p>14 accounting purposes, sir?</p> <p>15 MS. BLOOMER: Objection to the form of</p> <p>16 the question and the scope.</p> <p>17 A. I'm sorry, can you repeat the</p> <p>18 question?</p> <p>19 (Record read.)</p> <p>20 A. No.</p> <p>21 Q. Mr. Leitner, I'm handing you a copy of</p> <p>22 the Asset Purchase Agreement in this matter</p> <p>23 that's previously been marked Exhibit 1. Have</p> <p>24 you seen that document before, sir?</p> <p>25 A. Yes.</p>

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<p>1 A. Leitner</p> <p>2 Q. In fact, you reviewed it as part of</p> <p>3 your preparation for your report; is that</p> <p>4 correct?</p> <p>5 A. I have.</p> <p>6 Q. And your opinion in this matter is</p> <p>7 based in part upon your review of the Asset</p> <p>8 Purchase Agreement, correct?</p> <p>9 A. Yes.</p> <p>10 MS. BLOOMER: Objection to the form of</p> <p>11 the question.</p> <p>12 Q. This is one of the governing</p> <p>13 agreements, sir, that you believe is consistent</p> <p>14 with Barclays' legal position in this matter,</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. Do you agree with me, sir, that there</p> <p>18 is no reference in the Asset Purchase Agreement</p> <p>19 to either margin or any other collateral that</p> <p>20 relates to exchange-traded derivatives?</p> <p>21 MS. BLOOMER: Objection to the form of</p> <p>22 the question.</p> <p>23 A. I do not agree with your statement.</p> <p>24 Q. Why not?</p> <p>25 A. I would refer to my opinion for a more</p>	<p>1 A. Leitner</p> <p>2 complete definition, but using my own words, my</p> <p>3 understanding was that the transactions involved</p> <p>4 in the sale of businesses and assets associated</p> <p>5 with those businesses, exchange-traded</p> <p>6 derivatives were specifically referred to in the</p> <p>7 document. Deposits are referred to in the</p> <p>8 agreement.</p> <p>9 There is a reference I think to short</p> <p>10 positions as included assets that would take the</p> <p>11 other side of derivatives as long positions, and</p> <p>12 I don't see anything inconsistent -- I did not</p> <p>13 see anything inconsistent with the agreement --</p> <p>14 in the agreement with the proposition that any</p> <p>15 collateral that was securing the exchange-traded</p> <p>16 derivative positions was part of the business.</p> <p>17 Q. That's not quite my question, sir. My</p> <p>18 question is, is there in the Asset Purchase</p> <p>19 Agreement any specific reference to margin or</p> <p>20 collateral that relates to exchange-traded</p> <p>21 derivatives?</p> <p>22 MS. BLOOMER: Objection to the form of</p> <p>23 the question.</p> <p>24 A. I don't believe those words -- that I</p> <p>25 found those words used in the APA.</p>
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<p>1 A. Leitner</p> <p>2 Q. And it's your opinion, sir, that the</p> <p>3 reference to exchange-traded derivatives,</p> <p>4 deposits, and short positions are not</p> <p>5 inconsistent with Barclays' position that it</p> <p>6 gets the margin under the APA, sir, is that</p> <p>7 correct?</p> <p>8 MS. BLOOMER: Objection.</p> <p>9 Mischaracterizes the witness's testimony.</p> <p>10 A. My opinion speaks for itself.</p> <p>11 Q. Well, sir, with respect, your opinion</p> <p>12 doesn't speak for itself, which is why you're</p> <p>13 sitting for a deposition today. You have to</p> <p>14 answer my questions.</p> <p>15 MR. OXFORD: Can you read that back,</p> <p>16 please?</p> <p>17 MS. BLOOMER: And the question</p> <p>18 mischaracterized his testimony.</p> <p>19 MR. OXFORD: Your objection is on the</p> <p>20 record. Thanks, Trish.</p> <p>21 MS. BLOOMER: You asked him a</p> <p>22 different question.</p> <p>23 (Record read.)</p> <p>24 A. If you'll allow me to answer without</p> <p>25 using a double negative, my answer would be that</p>	<p>1 A. Leitner</p> <p>2 it is consistent with their position.</p> <p>3 Q. Is the Asset Purchase Agreement, sir,</p> <p>4 in your opinion also consistent with the</p> <p>5 position that Barclays does not acquire the</p> <p>6 margin or collateral related to exchange-traded</p> <p>7 derivatives under the APA?</p> <p>8 MS. BLOOMER: Objection. Calls for</p> <p>9 interpretation of the agreement.</p> <p>10 MR. OXFORD: Trish, he's offered an</p> <p>11 opinion on the interpretation of the</p> <p>12 agreement. You do know that.</p> <p>13 MS. BLOOMER: He's saying what it's</p> <p>14 consistent with. I'm just making an</p> <p>15 objection. You can ask the question. I</p> <p>16 haven't instructed him not to answer.</p> <p>17 Q. Do you have the question in mind, sir?</p> <p>18 A. I'm sorry, I didn't hear you.</p> <p>19 Q. Do you have the question in mind, sir?</p> <p>20 A. Yes.</p> <p>21 MS. BLOOMER: Would you like the</p> <p>22 question repeated so it can refresh your</p> <p>23 memory?</p> <p>24 THE WITNESS: Are you instructing me</p> <p>25 not to answer?</p>

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<p>1 A. Leitner</p> <p>2 MS. BLOOMER: No. No.</p> <p>3 THE WITNESS: She's speaking into my</p> <p>4 bad ear.</p> <p>5 MR. OXFORD: We can swap if it's</p> <p>6 easier.</p> <p>7 A. Let me be very clear, if I can.</p> <p>8 Q. Please.</p> <p>9 A. The agreement is helpful in forming my</p> <p>10 conclusion as stated in my report. It is</p> <p>11 certainly not the only factor I used in reaching</p> <p>12 the conclusion that I did, but my report</p> <p>13 concludes that Barclays believed at the time</p> <p>14 this agreement was signed and throughout the</p> <p>15 transaction, and acted on that assumption, that</p> <p>16 it would be receiving all of the assets</p> <p>17 necessary to run the business, which in my</p> <p>18 opinion would include all the collateral</p> <p>19 supporting those exchange-traded derivative</p> <p>20 positions.</p> <p>21 MR. OXFORD: Can you read my question</p> <p>22 back that starts with "the Asset Purchase</p> <p>23 Agreement."</p> <p>24 (Record read.)</p> <p>25 A. My answer would be no.</p>	<p>1 A. Leitner</p> <p>2 Q. Did you talk to anybody at Barclays,</p> <p>3 sir, about any of the provisions in the APA that</p> <p>4 you have referred to in your testimony today?</p> <p>5 MS. BLOOMER: I object to the form of</p> <p>6 the question to the extent it requires you</p> <p>7 to disclose discussions that you've had with</p> <p>8 attorneys. I instruct you not to answer to</p> <p>9 that extent, but otherwise, you can answer.</p> <p>10 A. I'm trying to think. In the -- with</p> <p>11 respect to the actual employees of Barclays with</p> <p>12 whom I have personally met, did I ever speak</p> <p>13 about provisions of the agreement, the answer is</p> <p>14 I don't recall any such discussions.</p> <p>15 Q. Did you talk, sir, to the people who</p> <p>16 from Barclays negotiated the Asset Purchase</p> <p>17 Agreement?</p> <p>18 A. I did not.</p> <p>19 Q. You didn't talk to anybody at Barclays</p> <p>20 about what they meant when they signed an</p> <p>21 agreement that says "purchased assets include</p> <p>22 exchange-traded derivatives"; is that correct?</p> <p>23 A. To the best of my recollection, I did</p> <p>24 not have any such discussions.</p> <p>25 You're asking me if I had such</p>
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<p>1 A. Leitner</p> <p>2 discussions; is that right?</p> <p>3 You want to read the question back,</p> <p>4 please?</p> <p>5 (Record read.)</p> <p>6 A. Correct.</p> <p>7 Q. Did you --</p> <p>8 A. I don't recall any such discussions.</p> <p>9 Q. Did you talk to anybody at Barclays</p> <p>10 about what they meant when they signed an</p> <p>11 agreement that included deposits in purchased</p> <p>12 assets, sir?</p> <p>13 MS. BLOOMER: Object to the question.</p> <p>14 Only answer to the extent that you can. You</p> <p>15 can do so without disclosing discussions</p> <p>16 that you've had with lawyers.</p> <p>17 A. I believe the question was did I have</p> <p>18 any discussion with people at Barclays?</p> <p>19 MS. BLOOMER: Yes.</p> <p>20 THE WITNESS: And the answer would be</p> <p>21 I did not.</p> <p>22 Q. Do you agree, sir, that margin is an</p> <p>23 asset that is related to a derivative contract?</p> <p>24 MS. BLOOMER: Objection to the form of</p> <p>25 the question.</p>	<p>1 A. Leitner</p> <p>2 A. I'm sorry, I don't mean to quibble,</p> <p>3 but how do you mean "related"?</p> <p>4 Q. I'm not sure I can be more specific.</p> <p>5 Do you know what the word "related" means?</p> <p>6 MS. BLOOMER: Object to the form of</p> <p>7 the question.</p> <p>8 A. The problem -- here's the problem I</p> <p>9 have with the question, and this transaction</p> <p>10 highlights it. "Margin" is a term generally</p> <p>11 used to define, either by rule or regulation, or</p> <p>12 by the rules, in this case, of a clearing house,</p> <p>13 the property or cover -- I'm going to get back</p> <p>14 to the word "cover" -- that it is prepared to</p> <p>15 accept for the privilege of being able to have</p> <p>16 an exposure to the market.</p> <p>17 So, for example, the Options Clearing</p> <p>18 Corp. will accept letters of credit as</p> <p>19 collateral for the position. I would not</p> <p>20 characterize -- I would characterize that letter</p> <p>21 of credit as meeting the margin requirement, but</p> <p>22 not as an asset.</p> <p>23 It may also be that, in the case of,</p> <p>24 as I say in my opinion, the methodology by which</p> <p>25 the margin requirement is calculated may be</p>

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<p>1 A. Leitner 2 based on offsets of long positions. 3 So this is an area where I would 4 hesitate to give you an answer to your question 5 that does not take into account the -- what is 6 meant by the word "margin." 7 Q. In your example, sir, would the letter 8 of credit be related to the derivative contract, 9 the risk of which it was posted to cover? 10 MS. BLOOMER: Objection to the form of 11 the question. 12 A. The letter of credit is accepted by 13 the clearing house as cover for or margin for 14 the exposures in the aggregate sense of all of 15 the derivatives that are in that clearing 16 member's account. That's the best way I can 17 answer it. 18 Q. Sir, is it related or not related to 19 the derivatives in that account? 20 MS. BLOOMER: Objection. Asked and 21 answered. 22 A. To the extent that the clearing house 23 recognizes any type of collateral, including 24 letters of credit, as constituting sufficient 25 cover for the assets in the account, I would</p>	<p>1 A. Leitner 2 agree that it is related. 3 Q. Could you turn, sir, to page 2 of the 4 Asset Purchase Agreement. Do you see towards 5 the bottom, sir, there's the definition of 6 "excluded assets"? 7 A. Yes. 8 Q. And do you see that the list of 9 excluded assets starts on page 2, continues 10 through page 3 and over onto page 4; do you see 11 that, sir? 12 A. Yes. 13 Q. Did you review that list when forming 14 your opinions, sir? 15 A. Yes. 16 Q. Turning your attention specifically to 17 clause (n) at if top of page 4. 18 A. Yes. 19 Q. And it reads, "All assets primarily 20 related to the IMD business and derivatives 21 contracts." Do you see that, sir? 22 A. Yes. 23 Q. Did you consider that clause in 24 forming your opinion? 25 MS. BLOOMER: Object to the form of</p>
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<p>1 A. Leitner 2 the question. 3 A. My answer would be that generally, 4 yes, but specifically, no. 5 Q. Do you agree, sir, that this clause 6 excludes from the definition of "purchased 7 assets" assets primarily related to derivatives 8 contracts? 9 MS. BLOOMER: Objection. 10 A. You're asking me to interrupt the 11 contract. I -- 12 Q. Yes, I am, sir. 13 A. Well, I -- I was not asked in my 14 opinion to interpret the contract and I can't 15 interpret the contract. I don't have enough 16 information to draw any conclusion about either 17 what the IMD business was or what derivative 18 contracts were meant with regard to the IMD 19 business. 20 Q. Sir, you do know -- 21 Sorry. I didn't mean to cut you off. 22 A. Because the agreement elsewhere refers 23 to exchange-traded derivatives, because these 24 could well have been swaps or OTC derivatives. 25 I have no idea.</p>	<p>1 A. Leitner 2 Q. You've offered an opinion, sir, that 3 the governing agreements, including the APA, are 4 consistent with Barclays' position in this 5 litigation, haven't you, sir? 6 A. I did. 7 Q. And this is one of the governing 8 agreements you have offered an opinion on, sir? 9 MS. BLOOMER: Objection to the form of 10 the question. 11 A. I offered an opinion about the 12 agreement in the context, as my report states, 13 of all the other relevant facts that were stated 14 in my opinion, yes. 15 Q. And your opinion, sir, is that the 16 definition of "exchange-traded derivatives" in 17 paragraph D of the purchased assets includes 18 collateral or margins; is that correct? 19 MS. BLOOMER: Objection to the form of 20 the question. Mischaracterizes his 21 testimony. Paragraph D of what agreement 22 are you talking about? 23 MR. OXFORD: The definition of 24 "purchased assets" in the APA. 25 MS. BLOOMER: In the APA?</p>

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<p>1 A. Leitner</p> <p>2 Could you refer him to a page number?</p> <p>3 MR. OXFORD: Sure.</p> <p>4 Q. Page 6, sir.</p> <p>5 A. Page 6 of what?</p> <p>6 Q. The Asset Purchase Agreement.</p> <p>7 MS. BLOOMER: Do you have the question</p> <p>8 in mind?</p> <p>9 A. So what am I --</p> <p>10 Q. Your opinion is that paragraph D of</p> <p>11 the definition of "purchased assets,"</p> <p>12 particularly the inclusion of the phrase</p> <p>13 "exchange-traded derivatives," is consistent</p> <p>14 with Barclays' position in this litigation that</p> <p>15 the Asset Purchase Agreement conveys to Barclays</p> <p>16 the margin associated with exchange-traded</p> <p>17 derivatives; isn't that correct, sir?</p> <p>18 MS. BLOOMER: Objection to the form of</p> <p>19 the question. You are selectively choosing</p> <p>20 from his testimony. That mischaracterizes</p> <p>21 his testimony.</p> <p>22 A. It is consistent with my opinion taken</p> <p>23 together with all the other facts and</p> <p>24 circumstances referred to in my opinion.</p> <p>25 Q. Is it possible, sir, that assets</p>	<p>1 A. Leitner</p> <p>2 primarily related to derivatives contracts in</p> <p>3 the sense that it is used in paragraph (n) on</p> <p>4 page 4 is intended to exclude from the purchased</p> <p>5 assets going to Barclays the margin or other</p> <p>6 collateral associated with derivatives</p> <p>7 contracts?</p> <p>8 MS. BLOOMER: Objection to the use of</p> <p>9 the undefined term "derivatives contract"</p> <p>10 and to the deletion of the language in the</p> <p>11 middle of assets and derivatives contracts</p> <p>12 in paragraph (n).</p> <p>13 THE WITNESS: I'm sorry, can you</p> <p>14 repeat the question?</p> <p>15 (Record read.)</p> <p>16 MS. BLOOMER: Objection to the form of</p> <p>17 the question.</p> <p>18 A. It seems to me completely inconsistent</p> <p>19 with the basic agreement, as I understood it,</p> <p>20 that various businesses were being transferred</p> <p>21 from Lehman to Barclays and that the core of</p> <p>22 those businesses were defined in the included</p> <p>23 assets. In the context of this agreement, the</p> <p>24 IMD business appears to be a business they were</p> <p>25 not acquiring, and therefore -- and I have no</p>
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<p>1 A. Leitner</p> <p>2 idea why they used the word "derivatives," and</p> <p>3 so I think it is completely irrelevant to any</p> <p>4 aspect of my report. But I have formed that</p> <p>5 opinion because you asked me just now, but</p> <p>6 that's ...</p> <p>7 Q. You didn't --</p> <p>8 A. And --</p> <p>9 Sorry. Go ahead.</p> <p>10 Q. Have you finished your answer, sir?</p> <p>11 A. I have.</p> <p>12 Q. Safe to say you didn't talk to anybody</p> <p>13 at Barclays about who negotiated the Asset</p> <p>14 Purchase Agreement about what they meant by</p> <p>15 paragraph (n) of the excluded assets when they</p> <p>16 signed this document, sir?</p> <p>17 MS. BLOOMER: Objection to the form of</p> <p>18 the question and I instruct the witness not</p> <p>19 to answer to the extent it would require the</p> <p>20 disclosure of discussions with his attorney.</p> <p>21 MR. DAKIS: I'm sorry. I hate to</p> <p>22 interject. He's testifying as an expert</p> <p>23 today, correct?</p> <p>24 MS. BLOOMER: Yes, he is.</p> <p>25 MR. DAKIS: Well, to the extent that</p>	<p>1 A. Leitner</p> <p>2 he relied on a conversation with an attorney</p> <p>3 in forming an opinion in his report, he</p> <p>4 can't take the privilege.</p> <p>5 MS. BLOOMER: I don't think that he --</p> <p>6 the question is asking whether he relied on</p> <p>7 what the attorney told him in forming his</p> <p>8 opinion. He's asking about whether he</p> <p>9 talked to an attorney, and there is a</p> <p>10 stipulation -- let me finish, please. There</p> <p>11 is a stipulation in this case that precludes</p> <p>12 Mr. Oxford from asking questions about</p> <p>13 discussions that he had with counsel that</p> <p>14 were separate from any underlying fact, and</p> <p>15 so the question of whether he spoke with an</p> <p>16 attorney is potentially calling for</p> <p>17 information that is beyond what is required</p> <p>18 to be disclosed and permitted to be asked</p> <p>19 about in the deposition.</p> <p>20 MR. DAKIS: With all due respect, the</p> <p>21 stipulation only goes to the extent he</p> <p>22 didn't rely on a discussion with the</p> <p>23 attorney.</p> <p>24 MS. BLOOMER: That's right, and that's</p> <p>25 why I gave the exception "to the extent."</p>

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<p>1 A. Leitner</p> <p>2 MR. DAKIS: We respectfully disagree</p> <p>3 with your reading of the stipulation and</p> <p>4 with the instruction. We'll take it up with</p> <p>5 the judge at another time.</p> <p>6 MS. BLOOMER: Fine.</p> <p>7 THE WITNESS: So could you read back</p> <p>8 the question?</p> <p>9 (Record read.)</p> <p>10 A. I do not recall any such discussion.</p> <p>11 Q. It's your opinion, Mr. Leitner, isn't</p> <p>12 it, that margin is such an important part of</p> <p>13 this transaction that no rational purchaser of</p> <p>14 Lehman's exchange-traded derivatives business</p> <p>15 would agree, in the circumstances in which</p> <p>16 Barclays purchased that business in September</p> <p>17 2008, to buy the business without the margin,</p> <p>18 correct?</p> <p>19 MS. BLOOMER: Objection to the form of</p> <p>20 the question.</p> <p>21 A. I would refer to my report for the</p> <p>22 accurate statement, but in general terms, I</p> <p>23 believe that's my conclusion.</p> <p>24 Q. If it's so important to Barclays to</p> <p>25 get the margin, why wouldn't they make a</p>	<p>1 A. Leitner</p> <p>2 specific reference to the margin in the APA?</p> <p>3 MS. BLOOMER: Objection to the form of</p> <p>4 the question. Calls for speculation.</p> <p>5 A. It does call for speculation and I</p> <p>6 can't speculate. I wasn't there, I don't know</p> <p>7 what was in the minds of the parties, but I have</p> <p>8 generally taken the view simply as a lawyer that</p> <p>9 the more expansive and general terms you use the</p> <p>10 more you intend it to be expansive and general.</p> <p>11 Q. You're aware, sir, that Barclays was</p> <p>12 represented by sophisticated counsel in this</p> <p>13 matter, correct?</p> <p>14 MS. BLOOMER: Objection to the form of</p> <p>15 the question.</p> <p>16 A. I believe both sides of this</p> <p>17 transaction were represented by competent and</p> <p>18 experienced counsel.</p> <p>19 Q. And the counsel that represented</p> <p>20 Barclays knew how to draft a clause that would</p> <p>21 expressly convey margin and collateral --</p> <p>22 MS. BLOOMER: Objection.</p> <p>23 Q. -- in a sale document?</p> <p>24 MR. OXFORD: Please let me finish the</p> <p>25 question.</p>
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<p>1 A. Leitner</p> <p>2 Q. Correct?</p> <p>3 A. I don't mean to be facetious, but I</p> <p>4 think that under the time pressure that these</p> <p>5 attorneys were working, they did the best job</p> <p>6 they could possibly do. So I cannot speculate</p> <p>7 about whether and why people did not explore</p> <p>8 every potential avenue that might have been</p> <p>9 explored or clarified in the APA if you had, for</p> <p>10 example, a month to do the transaction or even a</p> <p>11 week.</p> <p>12 I think, just as a personal comment, I</p> <p>13 believe both sides did a very good job under</p> <p>14 very trying circumstances.</p> <p>15 Q. In Schedule 1 to your opinion, sir,</p> <p>16 you set out the documents that you reviewed in</p> <p>17 forming your opinion, correct?</p> <p>18 A. I'm sorry, just --</p> <p>19 (Record read.)</p> <p>20 A. Yes.</p> <p>21 Q. And there are over a hundred documents</p> <p>22 in there, correct, sir?</p> <p>23 A. Yes.</p> <p>24 Q. In any of those documents that you</p> <p>25 reviewed did you see a reference to margin or</p>	<p>1 A. Leitner</p> <p>2 collateral associated with exchange-traded</p> <p>3 derivatives in a document that's dated prior to</p> <p>4 the Sale Hearing?</p> <p>5 MS. BLOOMER: Objection.</p> <p>6 A. Prior to the Sale Hearing?</p> <p>7 Q. Correct.</p> <p>8 MS. BLOOMER: Do you know specifically</p> <p>9 when the Sale Hearing was just so that you</p> <p>10 can answer the question appropriately? I</p> <p>11 just want to be sure it's a fair question.</p> <p>12 MR. OXFORD: Sure.</p> <p>13 Q. If it helps you answer my question,</p> <p>14 Mr. Leitner, I will represent to you that the</p> <p>15 Sale Hearing in this case took place on</p> <p>16 September 19, 2008.</p> <p>17 MS. BLOOMER: And the timeframe?</p> <p>18 A. Friday?</p> <p>19 Q. Friday at around approximately 4 or 5</p> <p>20 P.M.</p> <p>21 A. And so the question was, did I?</p> <p>22 Q. Have you seen any documents that are</p> <p>23 dated prior to the Sale Hearing that so much as</p> <p>24 reference margin or collateral?</p> <p>25 A. Yes.</p>

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<p>1 A. Leitner</p> <p>2 Q. Which documents, sir?</p> <p>3 And just so we have a clean record,</p> <p>4 you jumped in a little bit, I understand we're</p> <p>5 trying to move forward, but my question is have</p> <p>6 you seen any documents that were dated prior to</p> <p>7 the Sale Hearing, as I have just explained it to</p> <p>8 you, that were created by Barclays that</p> <p>9 specifically reference margin or collateral</p> <p>10 associated with exchange-traded derivatives?</p> <p>11 A. The answer is I believe I -- I believe</p> <p>12 that I did see such a document. I do not recall</p> <p>13 if it referred to any specifics, specific</p> <p>14 numbers relating to margin, but it may have</p> <p>15 referred to margin generally and ...</p> <p>16 Q. Are you able to identify that document</p> <p>17 for me, sir?</p> <p>18 A. Not by reference number. Only in</p> <p>19 general terms.</p> <p>20 Q. Give me the best you can in general</p> <p>21 terms of your description of that document.</p> <p>22 A. My recollection was that it was a</p> <p>23 document either produced by or given to Liz</p> <p>24 James in connection with their examination of</p> <p>25 the FCM business of Barclays, which, as I recall</p>	<p>1 A. Leitner</p> <p>2 either from her testimony or in preparation for</p> <p>3 her declaration, occurred prior to the Sale</p> <p>4 Hearing.</p> <p>5 Q. Perhaps we could leave a space in the</p> <p>6 transcript and we could identify that document</p> <p>7 by Bates number.</p> <p>8 MS. BLOOMER: I can try to get you --</p> <p>9 I will get you the Bates number before the</p> <p>10 end of the day, hopefully after the next</p> <p>11 break, which by way, we might want to take</p> <p>12 soon. It's been over an hour.</p> <p>13 MR. OXFORD: Sure. A couple more</p> <p>14 minutes to finish this line and then we can</p> <p>15 take a break.</p> <p>16 MS. BLOOMER: Absolutely.</p> <p>17 Q. Have you -- withdrawn. Other than</p> <p>18 that one document that relates to the futures</p> <p>19 business, sir, have you seen any documents</p> <p>20 created by Barclays that reference margin as it</p> <p>21 relates to exchange-traded derivatives prior to</p> <p>22 the date of the Sale Hearing?</p> <p>23 MS. BLOOMER: Objection. You said</p> <p>24 "other than," but you've changed the scope</p> <p>25 of the question. Now you're saying</p>
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<p>1 A. Leitner</p> <p>2 documents created by Barclays as opposed to</p> <p>3 just documents created prior to the Sale</p> <p>4 Hearing? Did you mean to change the scope?</p> <p>5 I just want to make sure.</p> <p>6 MR. OXFORD: I don't think I did</p> <p>7 change the scope, but my question is fine.</p> <p>8 MS. BLOOMER: Objection to the form of</p> <p>9 the question.</p> <p>10 A. I don't remember.</p> <p>11 MR. OXFORD: Now is probably a good</p> <p>12 time to take a couple of minutes.</p> <p>13 (Recess; Time Noted: 9:39 A.M.)</p> <p>14 (Time Noted: 9:52 A.M.)</p> <p>15 BY MR. OXFORD:</p> <p>16 Q. Mr. Leitner, you reviewed Bart</p> <p>17 McDade's testimony before you wrote your</p> <p>18 opinion, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Did you review Bart McDade's testimony</p> <p>21 about the inclusion of margin in the transaction</p> <p>22 between Lehman and Barclays?</p> <p>23 MS. BLOOMER: Objection to the form.</p> <p>24 A. As best I can recall, yes.</p> <p>25 Q. How did that affect your opinion, sir?</p>	<p>1 A. Leitner</p> <p>2 MS. BLOOMER: Objection. Lack of</p> <p>3 foundation.</p> <p>4 A. As best I can recall, nothing in what</p> <p>5 I read was inconsistent with the opinions that I</p> <p>6 was forming.</p> <p>7 Q. Did you understand, sir, that Bart</p> <p>8 McDade was Lehman's chief negotiator of the</p> <p>9 transaction?</p> <p>10 A. Yes.</p> <p>11 Q. And you understand that he testified</p> <p>12 at the Sale Hearing we have discussed earlier?</p> <p>13 A. That -- I'm sorry, I didn't hear you.</p> <p>14 The Sale Hearing what?</p> <p>15 Q. That we discussed earlier, you</p> <p>16 understand Mr. McDade testified at that hearing?</p> <p>17 A. Yes.</p> <p>18 Q. Do you understand that Mr. McDade</p> <p>19 participated in all of the negotiations</p> <p>20 involving the Asset Purchase Agreement?</p> <p>21 MS. BLOOMER: Objection to the form of</p> <p>22 the question.</p> <p>23 A. I don't know one way or the other</p> <p>24 whether he participated in all of the</p> <p>25 negotiations.</p>

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<p>1 A. Leitner</p> <p>2 Q. Okay. Well, I will represent to you</p> <p>3 that Mr. McDade testified that he did</p> <p>4 participate in all negotiations concerning the</p> <p>5 Asset Purchase Agreement.</p> <p>6 I will also represent to you that he</p> <p>7 never discussed with anyone the transfer of</p> <p>8 margin to Barclays under the Asset Purchase</p> <p>9 Agreement, sir.</p> <p>10 With those two representations in</p> <p>11 mind --</p> <p>12 MS. BLOOMER: And I'm going to object</p> <p>13 to the form of the question.</p> <p>14 Q. With those two representations in</p> <p>15 mind, sir, how does that affect your opinion, if</p> <p>16 at all?</p> <p>17 MS. BLOOMER: Object to the form of</p> <p>18 the question. I'm going to --</p> <p>19 A. Just read the question back again,</p> <p>20 what was represented.</p> <p>21 (Record read.)</p> <p>22 A. It doesn't affect my opinion.</p> <p>23 Q. Why not, sir?</p> <p>24 A. As my report states, I reached the</p> <p>25 opinions expressed there in part because of my</p>	<p>1 A. Leitner</p> <p>2 understanding that there was a transfer of</p> <p>3 business involved that included exchange-traded</p> <p>4 derivatives, and that it would not, at the time</p> <p>5 of the inception of the transaction, been</p> <p>6 necessary to more precisely define what was</p> <p>7 involved in the business unless you really</p> <p>8 wanted to be specific about something.</p> <p>9 So, for example, there is no reference</p> <p>10 in the excluded asset category to margin at all,</p> <p>11 so presumably one could say that the fact that</p> <p>12 there wasn't any reference to the transfer of</p> <p>13 margin, the Lehman side just as easily as the</p> <p>14 Barclays side could have dealt with that</p> <p>15 explicitly if they wished to. I don't believe</p> <p>16 it was necessary for them to explicitly deal</p> <p>17 with it, and so the answer is I don't see that</p> <p>18 his failure to specifically bring it up has any</p> <p>19 impact on my opinion.</p> <p>20 Q. Not Mr. McDade's failure to bring it</p> <p>21 up. He never discussed with anybody for</p> <p>22 Barclays the inclusion of margin in the deal as</p> <p>23 reflected in the APA, sir. Does that, with that</p> <p>24 representation in mind, does that affect your</p> <p>25 opinion?</p>
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<p>1 A. Leitner</p> <p>2 A. No.</p> <p>3 MS. BLOOMER: Objection. Asked and</p> <p>4 answered.</p> <p>5 A. Could we just pause for a second</p> <p>6 because I'd like to correct a statement that it</p> <p>7 occurred to me that when you were asking in a</p> <p>8 line of questioning at the beginning of this</p> <p>9 deposition about transfer of customers?</p> <p>10 Q. Sure.</p> <p>11 A. Just to make clear that I was</p> <p>12 certainly aware that in connection with the</p> <p>13 transfer of the FCM business, that is, the</p> <p>14 futures business, that that was a customer</p> <p>15 business, and to the extent that they took on</p> <p>16 that business, obviously all of the FCM</p> <p>17 customers were included, other than those that</p> <p>18 might have decided on their own to go somewhere</p> <p>19 else. I think we only focused on the securities</p> <p>20 options side.</p> <p>21 Q. Are you able to identify for me, sir,</p> <p>22 a single businessperson who on behalf of Lehman</p> <p>23 agreed to provide Barclays with the margin or</p> <p>24 collateral associated with exchange-traded</p> <p>25 derivatives?</p>	<p>1 A. Leitner</p> <p>2 A. My report states, and my opinion is,</p> <p>3 that the agreement to transfer the entire</p> <p>4 businesses that are referred to in the agreement</p> <p>5 that included the exchange-traded derivatives</p> <p>6 aspect of those businesses and the business</p> <p>7 itself necessarily comprised the assets</p> <p>8 necessary to conduct those businesses, which</p> <p>9 would have included the assets deployed to</p> <p>10 secure the positions, and that it was, as I</p> <p>11 state in my opinion, in Lehman's interest to do</p> <p>12 that because the failure to do it would have</p> <p>13 exposed Lehman to huge risks and to the SIPA</p> <p>14 Trustee for that matter.</p> <p>15 So whether it was -- so, anyway,</p> <p>16 that's my opinion.</p> <p>17 Q. Is it correct, sir, that you're not</p> <p>18 able to identify for me a single businessperson</p> <p>19 who on behalf of Lehman specifically agreed that</p> <p>20 Barclays should, in addition to the</p> <p>21 exchange-traded derivatives, get the margin or</p> <p>22 collateral that was related to those</p> <p>23 derivatives, yes or no?</p> <p>24 MS. BLOOMER: Objection to the form of</p> <p>25 the question.</p>

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<p>1 A. Leitner</p> <p>2 A. I'm not aware of anyone on the Lehman</p> <p>3 side who, based on any testimony I've seen, that</p> <p>4 drilled down to that level of detail in</p> <p>5 connection with the APA.</p> <p>6 Q. Does that conclude your answer, sir?</p> <p>7 A. Yes.</p> <p>8 Q. Can you answer this question yes or</p> <p>9 no: Are you able to identify for me, sir, any</p> <p>10 businessperson who on behalf of Lehman</p> <p>11 specifically agreed that Barclays, in addition</p> <p>12 to the exchange-traded derivatives, would get</p> <p>13 the collateral or margin associated with those</p> <p>14 exchange-traded derivatives?</p> <p>15 A. When?</p> <p>16 MS. BLOOMER: Objection to the form of</p> <p>17 the question.</p> <p>18 Q. At any time.</p> <p>19 MS. BLOOMER: Objection to the form of</p> <p>20 the question.</p> <p>21 A. I cannot identify any specific Lehman</p> <p>22 person.</p> <p>23 Q. Can you have the Asset Purchase</p> <p>24 Agreement in front of you, sir?</p> <p>25 A. Can I just complete my answer?</p>	<p>1 A. Leitner</p> <p>2 I just want to -- I'm not sure that</p> <p>3 your timeframe -- I want to make sure I</p> <p>4 understood the timeframe because my answer</p> <p>5 related to the Asset Purchase Agreement. There</p> <p>6 were subsequent developments that clearly</p> <p>7 confirm what I view was the intent of the</p> <p>8 parties to transfer all of the collateral, and</p> <p>9 that includes the signing of the asset -- of the</p> <p>10 assignment and transfer agreement, or whatever</p> <p>11 it was called, with OCC and, you know, other</p> <p>12 developments.</p> <p>13 So I'm only talking in terms of not</p> <p>14 knowing whether anybody at Barclays specifically</p> <p>15 agreed to it to the negotiations relating to the</p> <p>16 APA.</p> <p>17 MR. OXFORD: Can you read back, Kathy,</p> <p>18 my question that begins "can you answer this</p> <p>19 question yes or no," please?</p> <p>20 (Record read.)</p> <p>21 MS. BLOOMER: Objection to form and</p> <p>22 asked and answered.</p> <p>23 A. I cannot identify the Barclays</p> <p>24 businessperson.</p> <p>25 MS. BLOOMER: I think you mean Lehman.</p>
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<p>1 A. Leitner</p> <p>2 A. I'm sorry, I do that from time to</p> <p>3 time. I mean the -- thank you for correcting</p> <p>4 me -- anyone, any businessperson on the Lehman</p> <p>5 side. I don't mean to imply that there wasn't,</p> <p>6 but I can't identify.</p> <p>7 Q. Can you identify a businessperson on</p> <p>8 the Barclays side who, on behalf of Barclays,</p> <p>9 specifically agreed with Lehman that Barclays,</p> <p>10 in addition to the exchange-traded derivatives,</p> <p>11 would also get the collateral and margin</p> <p>12 associated with those exchange-traded</p> <p>13 derivatives?</p> <p>14 MS. BLOOMER: Objection to form.</p> <p>15 Objection to the form of the question.</p> <p>16 A. I can't identify who on the Barclays</p> <p>17 side were the primary negotiators of the</p> <p>18 documents, so the answer is no, I can't identify</p> <p>19 any such person.</p> <p>20 Q. With the APA in front of you, sir,</p> <p>21 could you turn to page 6? Do you have that in</p> <p>22 front of you, sir?</p> <p>23 A. Yes.</p> <p>24 Q. Do you see that paragraph D of the</p> <p>25 purchased assets includes government securities,</p>	<p>1 A. Leitner</p> <p>2 commercial paper or corporate debt, corporate</p> <p>3 equity, exchange-traded derivatives, and</p> <p>4 collateral short-term agreements with a book</p> <p>5 value as of the date hereof of approximately \$70</p> <p>6 billion, do you see that?</p> <p>7 A. I do.</p> <p>8 Q. Those are defined collectively as the</p> <p>9 long positions, do you see that, sir?</p> <p>10 A. Yes.</p> <p>11 Q. And if you turn to page 12 --</p> <p>12 actually, initially, to page 11, you see there's</p> <p>13 a definition of "assumed liabilities" in</p> <p>14 paragraph 2.3?</p> <p>15 A. Yes.</p> <p>16 Q. Do you see that over the page on page</p> <p>17 12, subclause "i" of 2.3, includes as assumed</p> <p>18 liabilities or short positions and repos</p> <p>19 relating to any securities or interests of the</p> <p>20 types included in the definition of "long</p> <p>21 positions" with a book value as of the date</p> <p>22 hereof of approximately \$69 billion, do you see</p> <p>23 that?</p> <p>24 A. Yes.</p> <p>25 Q. "Collectively, short positions, and</p>

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<p>1 A. Leitner</p> <p>2 together with long positions, the positions."</p> <p>3 Do you see that, sir?</p> <p>4 A. Yes.</p> <p>5 Q. With that in mind, can you turn to</p> <p>6 paragraph 24 of your report, please?</p> <p>7 (Exhibit 653, a document bearing Bates</p> <p>8 Nos. BCI-EX-(S)-00074256 through 57, marked</p> <p>9 for identification, as of this date.)</p> <p>10 A. Okay.</p> <p>11 Q. I've handed you, sir, what I have</p> <p>12 marked as Exhibit 653, sir. Do you see that</p> <p>13 that is the document you reference in paragraph</p> <p>14 24 of your report?</p> <p>15 MS. BLOOMER: Paragraph 24?</p> <p>16 MR. OXFORD: Paragraph 24.</p> <p>17 A. Okay.</p> <p>18 Q. Is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. And in paragraph 24, you make a</p> <p>21 reference to the long positions and short</p> <p>22 positions in Lehman's corporate equity</p> <p>23 inventory --</p> <p>24 A. Yes.</p> <p>25 Q. -- as of September 15, do you see</p>	<p>1 A. Leitner</p> <p>2 that?</p> <p>3 A. Yes.</p> <p>4 Q. If you look at the attachment to</p> <p>5 Exhibit 653, that's the source for your numbers</p> <p>6 in paragraph 24, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And based on the e-mail that is at</p> <p>9 Bates 74256, would you agree that this was the</p> <p>10 balance sheet that Barclays was attempting to</p> <p>11 tie out to?</p> <p>12 MS. BLOOMER: Objection to the form of</p> <p>13 the question.</p> <p>14 A. Could you explain what you mean by</p> <p>15 "tie out to"?</p> <p>16 Q. Yes, there's a reference on the first</p> <p>17 page of the e-mail in the e-mail from Jasen Yang</p> <p>18 to James Walker. The subject is "LBI Balance</p> <p>19 Sheet Tie-Out." Do you see that?</p> <p>20 MS. BLOOMER: The question is do you</p> <p>21 see that?</p> <p>22 MR. OXFORD: Yes.</p> <p>23 A. Okay, what's the question?</p> <p>24 Q. Do you see the subject line, "LBI</p> <p>25 Balance Sheet Tie-Out"?</p>
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<p>1 A. Leitner</p> <p>2 A. Yes.</p> <p>3 Q. And do you see Mr. Yang writes, "This</p> <p>4 is the balance sheet summary I'm trying to tie</p> <p>5 out to"?</p> <p>6 A. Yes, I see that reference.</p> <p>7 Q. Does that suggest to you, sir, that</p> <p>8 Barclays is trying to tie back the assets they</p> <p>9 are purchasing to the balance sheet that's</p> <p>10 attached to this e-mail?</p> <p>11 MS. BLOOMER: Object to the form of</p> <p>12 the question and foundation.</p> <p>13 A. I don't know what they were doing.</p> <p>14 Q. Okay. Let's try it this way, sir.</p> <p>15 Your opinion is, at paragraph 24, that as of</p> <p>16 September 15, 2008 LBI's corporate equity</p> <p>17 inventory appears to have included long</p> <p>18 positions worth approximately \$8.4 billion and</p> <p>19 short positions worth approximately \$6.3</p> <p>20 billion, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And the basis for your opinion, sir,</p> <p>23 is the spreadsheet that I marked as Exhibit 653,</p> <p>24 correct?</p> <p>25 A. Yes.</p>	<p>1 A. Leitner</p> <p>2 Q. Is it reasonable, then, to conclude</p> <p>3 that LBI's derivatives inventory as of the same</p> <p>4 date is approximately 4.8 billion long positions</p> <p>5 and 4.5 billion short positions?</p> <p>6 MS. BLOOMER: Objection to the form of</p> <p>7 the question and foundation.</p> <p>8 A. No, I don't think it's possible to</p> <p>9 conclude that. I look at the document as being</p> <p>10 a part of the confusion surrounding exactly what</p> <p>11 was going to be coming over to Barclays. The</p> <p>12 purpose of paragraph 24, in my opinion, is to</p> <p>13 provide some idea of the size in dollar terms of</p> <p>14 the equity book that they thought they were</p> <p>15 getting. That's the purpose of paragraph 24.</p> <p>16 Q. Okay. And the basis for that, again,</p> <p>17 is Exhibit 653, correct?</p> <p>18 A. Yes.</p> <p>19 Q. So wouldn't Exhibit 653 also give some</p> <p>20 idea of the derivatives book that was also going</p> <p>21 to Barclays?</p> <p>22 MS. BLOOMER: Objection to the form of</p> <p>23 the question and mischaracterizes the</p> <p>24 document and the vague use of the term</p> <p>25 "derivatives."</p>

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<p>1 A. Leitner</p> <p>2 A. I can't answer that. I don't know</p> <p>3 what the word "derivatives" meant in the context</p> <p>4 of this particular report. I don't know whether</p> <p>5 it included only the exchange-traded derivatives</p> <p>6 or OTC derivatives as well.</p> <p>7 I think there was some confusion at</p> <p>8 various points in time as to whether or not</p> <p>9 information provided by Lehman to Barclays</p> <p>10 included or didn't include OTC options. By</p> <p>11 "OTC" I mean over-the-counter or privately</p> <p>12 negotiated options as opposed to the</p> <p>13 exchange-traded derivatives.</p> <p>14 So I cannot answer whether there is</p> <p>15 any -- whether this document is a fair</p> <p>16 representation of what the exchange-traded</p> <p>17 derivatives book looked like, and as I said, I</p> <p>18 wasn't using those numbers for any purpose in</p> <p>19 this report other than to try to give the sense</p> <p>20 of the size, overall size, of the book and the</p> <p>21 exposures because I felt that was relevant.</p> <p>22 Q. Do you know, sir, one way or the other</p> <p>23 whether the figures for derivatives in Exhibit</p> <p>24 653 include margin and other collateral related</p> <p>25 to derivatives?</p>	<p>1 A. Leitner</p> <p>2 A. No, I do not know.</p> <p>3 Q. If those figures did not include</p> <p>4 margin on collateral related to derivatives,</p> <p>5 would that support the conclusion that margin</p> <p>6 was not conveyed to Barclays under the Asset</p> <p>7 Purchase Agreement?</p> <p>8 A. This document doesn't support any such</p> <p>9 conclusion one way or the other. This document</p> <p>10 is only relevant to a point in time where the</p> <p>11 Barclays people were trying to understand what</p> <p>12 it all meant, as far as I can tell from the</p> <p>13 correspondence.</p> <p>14 Q. Mr. Leitner, I'm handing you what has</p> <p>15 previously been marked as Exhibit 19 in these</p> <p>16 depositions. You've seen that document before,</p> <p>17 haven't you, sir?</p> <p>18 A. Looks familiar.</p> <p>19 Q. In fact, you include it in the list of</p> <p>20 documents that you reviewed to prepare for your</p> <p>21 report, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Can you tell me what you understand</p> <p>24 that to be?</p> <p>25 A. It's one of the balance sheet</p>
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<p>1 A. Leitner</p> <p>2 snapshots that the parties were dealing with. I</p> <p>3 believe it was prepared by Lehman for Barclays.</p> <p>4 Q. You read Mr. Berkenfeld's testimony as</p> <p>5 part of your presentation for your report,</p> <p>6 correct?</p> <p>7 MS. BLOOMER: Objection to the form of</p> <p>8 the question.</p> <p>9 A. I looked at it, yes.</p> <p>10 Q. Did you look at Mr. Berkenfeld's</p> <p>11 testimony on Exhibit 19?</p> <p>12 A. I have no specific recollection of</p> <p>13 doing that.</p> <p>14 Q. Do you understand that Mr. Berkenfeld</p> <p>15 testified that Exhibit 19 was intended to</p> <p>16 explain the assets that were conveyed under the</p> <p>17 APA?</p> <p>18 MS. BLOOMER: Objection to the form of</p> <p>19 the question.</p> <p>20 A. I don't -- I don't recall enough of</p> <p>21 his testimony to be able to say one way or the</p> <p>22 other whether that's what he said or did. I</p> <p>23 just don't, don't -- I've read so many things in</p> <p>24 connection with this transaction, so ...</p> <p>25 Q. There have been a lot of depositions,</p>	<p>1 A. Leitner</p> <p>2 that's for sure. Yours is now being added to</p> <p>3 that pile.</p> <p>4 I will represent to you for the next</p> <p>5 series of questions, sir, that Mr. Berkenfeld</p> <p>6 did so testify, that Exhibit 19 was intended to</p> <p>7 explain the assets conveyed to Barclays under a</p> <p>8 the APA. Do you understand that representation?</p> <p>9 MS. BLOOMER: I'm going to object to</p> <p>10 the representation, Neil. There are a lot</p> <p>11 of things that Steve Berkenfeld may have</p> <p>12 said about this document. Your</p> <p>13 representation as to one of them, without</p> <p>14 having had the opportunity for Mr. Leitner</p> <p>15 to review all of the testimony about this,</p> <p>16 does not necessarily make for a fair</p> <p>17 representation of the questioning.</p> <p>18 MR. OXFORD: I don't think we need to</p> <p>19 derail the deposition for this, but I will</p> <p>20 represent that Mr. Leitner included Schedule</p> <p>21 1 as part of his reliance materials of Mr.</p> <p>22 Berkenfeld's deposition.</p> <p>23 MS. BLOOMER: That's right, but he has</p> <p>24 not represented that he read cover to cover</p> <p>25 of the deposition, and you can ask him if he</p>

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<p>1 A. Leitner 2 did, as I think you already have, and he 3 said he didn't. 4 Q. Do you understand that represent -- 5 MR. DAKIS: That mischaracterizes Mr. 6 Leitner's testimony. 7 THE WITNESS: Well, let me state for 8 the record that I did not read Mr. 9 Berkenfeld's deposition cover to cover. 10 MR. OXFORD: Can you just read back my 11 representation so we can make some progress 12 here, Kathy? 13 (Record read.) 14 A. I understand the representation. 15 Q. On Exhibit 19, sir, you see there's a 16 line item for "Derivatives" under "Assets"? 17 A. Yes. 18 Q. And you see that there's a line item 19 for "Derivatives" also under "Liabilities"? 20 A. Yes. 21 Q. And that the entries under both assets 22 and liabilities for derivatives is 4.5? 23 A. Yes. 24 Q. And you understand that, sir, to be a 25 reference to \$4.5 billion, correct?</p>	<p>1 A. Leitner 2 MS. BLOOMER: Objection to the form of 3 the question. 4 A. I have always assumed that. If you 5 represent to me that that's what it was, then it 6 confirms my assumption. 7 Q. I will so represent. 8 Do you have any basis, sir, to believe 9 that margin is included within the 4.5 billion 10 on either side of the balance sheet for the 11 "Derivatives" line item on Exhibit 19? 12 MS. BLOOMER: Objection to the form of 13 the question and beyond the scope of the 14 expert's report. 15 A. This document doesn't tell me anything 16 one way or the other about the category in which 17 collateral may have been accounted for in the 18 balance sheet. 19 Q. Are there other categories in Exhibit 20 19, sir, that you believe might encompass margin 21 or collateral related to derivatives? 22 MS. BLOOMER: Objection to the form of 23 the question. Calls for speculation. 24 A. I have no idea. 25 Q. Did you do anything, sir, to determine</p>
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<p>1 A. Leitner 2 whether or not margin was included in the 4.5 3 billion of assets and liabilities associated 4 with derivatives on Exhibit 19? 5 A. No. 6 Q. Did you ask Barclays for the data 7 underlying this balance sheet, sir? 8 MS. BLOOMER: Objection. Assumes 9 facts not in evidence. 10 A. I did not ask any person at Barclays 11 to explain what they thought this meant. 12 Q. That's not quite my question, sir. I 13 asked whether you asked Barclays for the data 14 that's underlying the spreadsheet, particularly 15 the data that underlies the entries for 16 derivatives under the "Assets" and the 17 "Liabilities" columns? 18 MS. BLOOMER: Object to the form of 19 the question and, again, to the fact that it 20 assumes facts not in evidence. 21 A. Sorry, just read back the question. 22 I'm going to be -- 23 (Record read.) 24 A. No, I did not ask Barclays for that 25 data.</p>	<p>1 A. Leitner 2 Q. Do you agree, sir, with the 3 representation as to Mr. Berkenfeld's testimony 4 in mind, do you agree, sir, that if these 5 numbers 4.5 for liabilities and assets in the 6 "Derivatives" line item of Exhibit 19 did not 7 include margin, that would support the 8 conclusion that margin was not included in the 9 Asset Purchase Agreement? 10 MS. BLOOMER: Objection to the form of 11 the question and to the representation. It 12 does not cover all of Mr. Berkenfeld's 13 testimony about this schedule. 14 A. No. 15 Q. Why not, sir? 16 A. Because it doesn't say anything about 17 the ever-changing disposition of assets by 18 Lehman Brothers to cover the margin requirements 19 at the clearing house for both customers and the 20 firm proprietary positions. So any portion of 21 these assets may have been deployed in 22 supporting those obligations together with, you 23 know, indirect support, such as letters of 24 credit. 25 Q. You'll notice, sir, that the entries</p>

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<p>1 A. Leitner</p> <p>2 under "Assets" and "Liabilities" for derivatives</p> <p>3 balance, do you see that?</p> <p>4 A. I see it.</p> <p>5 Q. Assuming those figures are to be</p> <p>6 correct, sir, as of the date of this schedule,</p> <p>7 and assuming that they represent long and short</p> <p>8 derivatives positions but not margin, in your</p> <p>9 opinion, sir, would it be irrational for a</p> <p>10 purchaser such as Barclays to buy the long and</p> <p>11 short derivatives positions without the margin?</p> <p>12 MS. BLOOMER: Objection to the form of</p> <p>13 the question and assumes facts not in</p> <p>14 evidence.</p> <p>15 A. This transaction was so unique in</p> <p>16 circumstances that were themselves unique that I</p> <p>17 simply refuse to speculate about a different set</p> <p>18 of scenarios that weren't present here.</p> <p>19 My understanding from the Barclays</p> <p>20 side is that they had serious doubts as to</p> <p>21 whether any of these numbers were accurate.</p> <p>22 So -- nor is it clear to me that a transaction</p> <p>23 that involved essentially taking over businesses</p> <p>24 and a bunch of assets and liabilities,</p> <p>25 particularly in the derivatives side associated</p>	<p>1 A. Leitner</p> <p>2 with those businesses, could possibly be done</p> <p>3 based on a snapshot at any given point in time</p> <p>4 given the volatility in the marketplace that</p> <p>5 changed the value of any of these component</p> <p>6 pieces by significant size from hour to hour and</p> <p>7 given the activity in the marketplace that was</p> <p>8 happening with regard to those assets, as I</p> <p>9 state in my report, in terms of how they were</p> <p>10 being depleted.</p> <p>11 So I simply cannot make any conclusion</p> <p>12 about the relevance of this document to the</p> <p>13 transaction much less in a hypothetical that,</p> <p>14 you know, does not reflect all of the facts and</p> <p>15 circumstances of this crazy situation.</p> <p>16 Q. I understand, sir, that you may not</p> <p>17 agree with my hypothetical, but you still have</p> <p>18 to answer the question.</p> <p>19 A. Well, I would --</p> <p>20 MS. BLOOMER: He's answered the</p> <p>21 question, Neil, as best he can. Do you have</p> <p>22 a different question?</p> <p>23 MR. OXFORD: I have the same question.</p> <p>24 I would like him to --</p> <p>25 A. You referred earlier to paragraph 94</p>
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<p>1 A. Leitner</p> <p>2 of my report. The paragraphs both before and</p> <p>3 after deal with potential scenarios not present</p> <p>4 here in which the parties could have done</p> <p>5 something different than what I believe happened</p> <p>6 here, and that's the best I can do in responding</p> <p>7 to this type of line of questions.</p> <p>8 So what I would say is that, given</p> <p>9 perfect facts, plenty of time, and an ability</p> <p>10 for a snapshot to be meaningful, the parties</p> <p>11 could have explicitly determined to do something</p> <p>12 with the collateral securing these positions</p> <p>13 other than what they actually agreed to do and,</p> <p>14 indeed, in the case of the OCC margin, did,</p> <p>15 which was to move it all to Barclays.</p> <p>16 Q. So your opinion, sir, is it would not</p> <p>17 be irrational if long derivatives positions were</p> <p>18 equal in value to the long derivatives -- the</p> <p>19 short derivative liabilities for Barclays to</p> <p>20 purchase those derivative assets and liabilities</p> <p>21 without the margin associated with those</p> <p>22 derivatives?</p> <p>23 MS. BLOOMER: I object to the form of</p> <p>24 the question and it completely</p> <p>25 mischaracterizes his testimony.</p>	<p>1 A. Leitner</p> <p>2 A. The problem with this balance sheet</p> <p>3 and the problem with the derivatives business</p> <p>4 that they were taking over is that the exposures</p> <p>5 on the clearing business that Barclays took over</p> <p>6 from Lehman was not solely related to the</p> <p>7 proprietary positions that would be reflected on</p> <p>8 this balance sheet.</p> <p>9 This is an asymmetric risk that they</p> <p>10 were assuming. Let's be very clear about that.</p> <p>11 And I tried to make it clear in the report that</p> <p>12 what Barclays was doing for Lehman and for the</p> <p>13 SIPA Trustee was to take on a package of unknown</p> <p>14 and unquantifiable exposures on the day of the</p> <p>15 closing that related to more than the</p> <p>16 proprietary positions.</p> <p>17 This balance sheet statement, as far</p> <p>18 as I can see, relates only to the proprietary</p> <p>19 positions of Lehman. But Lehman took on --</p> <p>20 Barclays took on every single risk associated</p> <p>21 with the clearing business that they took on.</p> <p>22 And so when we talk about the collateral</p> <p>23 securing those exposures, we are talking about</p> <p>24 collateral securing more than the exposures on</p> <p>25 the proprietary business. Clear?</p>

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<p>1 A. Leitner</p> <p>2 Q. Very clear.</p> <p>3 Leaving aside the exposures on the</p> <p>4 customer side, do you agree that if the data in</p> <p>5 Exhibit 19 relating to derivatives is accurate,</p> <p>6 by which I mean there's 4.5 billion of long</p> <p>7 derivatives positions and 4.5 billion of short</p> <p>8 derivatives positions, would it be irrational</p> <p>9 for Barclays to have agreed to purchase those</p> <p>10 assets and liabilities without the margin</p> <p>11 associated with those derivatives contracts?</p> <p>12 MS. BLOOMER: Objection. Assumes</p> <p>13 facts not in evidence.</p> <p>14 A. Let me tell you again -- I cannot give</p> <p>15 you a yes or no answer to that question because</p> <p>16 I cannot see any abstract situation where</p> <p>17 parties would be acquiring only a bunch of</p> <p>18 derivative positions without the related assets</p> <p>19 and liabilities and books of business that came</p> <p>20 along with them.</p> <p>21 So your hypothetical is simply not a</p> <p>22 real-world hypothetical that I can answer other</p> <p>23 than based on my experience in the business. It</p> <p>24 would never happen, and therefore, I simply</p> <p>25 refuse to give a hypothetical answer to a</p>	<p>1 A. Leitner</p> <p>2 situation that I don't think would ever be true</p> <p>3 in the real world.</p> <p>4 Q. In your opinion, sir, was Barclays</p> <p>5 acquiring the book of business that went along</p> <p>6 with the exchange-traded derivatives portfolio</p> <p>7 that Lehman had for its proprietary business?</p> <p>8 A. As I understood the APA, they were</p> <p>9 acquiring a capital markets business, a</p> <p>10 brokerage business, and the exchange-traded</p> <p>11 derivatives, which, upon analysis, is</p> <p>12 essentially a clearing operation, as well as --</p> <p>13 I mean, it's a general term to define a whole</p> <p>14 bunch of things that were going on.</p> <p>15 So the exchange-traded derivatives are</p> <p>16 both an independent business and an ancillary</p> <p>17 support operation to the other businesses that</p> <p>18 they were acquiring and that presumably Barclays</p> <p>19 wished to continue.</p> <p>20 Q. Can you turn to paragraph 63 of your</p> <p>21 report, please, sir. Do you have it there, sir?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Is it your opinion that many of the</p> <p>24 securities that -- withdrawn. Is it your</p> <p>25 opinion, sir, that many of the equity securities</p>
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<p>1 A. Leitner</p> <p>2 that Barclays was purchasing under the Asset</p> <p>3 Purchase Agreement were hedged by or hedged</p> <p>4 derivatives positions that Barclays was also</p> <p>5 buying under the APA?</p> <p>6 MS. BLOOMER: Objection to the vague</p> <p>7 use of the term "derivatives."</p> <p>8 A. My understanding relating only to that</p> <p>9 portion of the exchange-traded derivatives that</p> <p>10 related to the proprietary trading operations of</p> <p>11 Lehman was that the positions were put on for a</p> <p>12 variety of reasons and strategies, some of which</p> <p>13 involved hedging of equity-related positions of</p> <p>14 one sort or another that to some extent</p> <p>15 included, or could have included,</p> <p>16 over-the-counter transactions as well as long or</p> <p>17 short equity positions.</p> <p>18 I have to emphasize that we're talking</p> <p>19 about long and short options that relate to both</p> <p>20 long and short equity positions.</p> <p>21 Q. You say in paragraph 63, sir, that,</p> <p>22 "Subsequent to the signing of the APA, the</p> <p>23 exchange-traded derivatives assets and</p> <p>24 liabilities were constantly changing, as was the</p> <p>25 portfolio of equity securities that Barclays had</p>	<p>1 A. Leitner</p> <p>2 originally intended to acquire." Do you see</p> <p>3 that, sir?</p> <p>4 A. Yes.</p> <p>5 Q. And you say that many of those equity</p> <p>6 securities hedged or were hedged by the</p> <p>7 exchange-traded derivatives, is that correct,</p> <p>8 sir?</p> <p>9 A. Yes.</p> <p>10 Q. Do you have any idea, sir, of the</p> <p>11 extent to which the exchange-traded derivatives</p> <p>12 portfolio hedged Lehman's equities positions?</p> <p>13 And my question specifically relates to the</p> <p>14 exchange-traded derivatives positions and equity</p> <p>15 security positions that Barclays intended to buy</p> <p>16 under the APA.</p> <p>17 A. When?</p> <p>18 Q. As of the date of the APA, which is</p> <p>19 September 16, 2008.</p> <p>20 A. I have no idea. I don't think Lehman</p> <p>21 had any idea and I certainly know that Barclays</p> <p>22 didn't have any idea.</p> <p>23 Q. But you know some of those equity</p> <p>24 positions that Barclays was intending to buy</p> <p>25 under the APA were hedged by derivative</p>

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<p>1 A. Leitner</p> <p>2 positions, exchange-traded derivative positions,</p> <p>3 that Barclays also intended to buy under the</p> <p>4 APA, correct?</p> <p>5 A. My understanding is that, as paragraph</p> <p>6 63 says, they were constantly changing. Why</p> <p>7 were they constantly changing? They were</p> <p>8 constantly changing because to some extent the,</p> <p>9 as I state elsewhere in the report, some of the</p> <p>10 long positions were being financed and they</p> <p>11 disappeared because the other side would close</p> <p>12 the transactions out or the shorts were closed</p> <p>13 out. Shorts would be difficult to transfer</p> <p>14 under any circumstances, even though that was</p> <p>15 the intent of the parties. But so that the</p> <p>16 degree to which the positions were hedged at any</p> <p>17 given point in time were difficult, if not</p> <p>18 impossible, to determine. That's my</p> <p>19 understanding of the facts.</p> <p>20 Q. Leaving aside the question of degree,</p> <p>21 sir, you do know that there was some hedging of</p> <p>22 positions, specifically, the long equity</p> <p>23 positions and the exchange-traded derivatives</p> <p>24 positions in the book of business that Barclays</p> <p>25 was intending to buy under the APA?</p>	<p>1 A. Leitner</p> <p>2 A. Yes.</p> <p>3 Q. Where an exchange-traded derivative</p> <p>4 position is hedged by an equity position, sir,</p> <p>5 does that increase or decrease the risk to the</p> <p>6 holder of those positions?</p> <p>7 A. In a hypothetical sense, it decreases</p> <p>8 the risk.</p> <p>9 Q. So if Barclays were to purchase both</p> <p>10 sides of that hedge, the derivatives position</p> <p>11 and the equities position that hedges that</p> <p>12 derivatives position, the risk to Barclays is</p> <p>13 limited in those circumstances, correct?</p> <p>14 MS. BLOOMER: Objection to the form of</p> <p>15 the question.</p> <p>16 A. Well, sounds like we're going back to</p> <p>17 paragraph 94 of my opinion, which describes a</p> <p>18 situation where, with respect to the proprietary</p> <p>19 books of business, assuming that everything was</p> <p>20 coming over and you could anticipate and expect</p> <p>21 that, that you could at least determine for that</p> <p>22 aspect of the exposures you were taking on what</p> <p>23 the potential risk would be.</p> <p>24 But let me emphasize again that the</p> <p>25 risks were asymmetric because Barclays was</p>
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<p>1 A. Leitner</p> <p>2 taking on risks both for customer positions and,</p> <p>3 as it turned out, for affiliate positions in the</p> <p>4 clearing sense for which it had no hedges.</p> <p>5 Q. I understand that, sir. My questions</p> <p>6 are just related to the propriety positions that</p> <p>7 Barclays was purchasing.</p> <p>8 A. Right, but just -- I'm -- I want to be</p> <p>9 as clear as I possibly can in the context of my</p> <p>10 report that I did not in my report attempt to</p> <p>11 distinguish in terms of the clearing risks that</p> <p>12 Barclays was assuming between -- and, therefore,</p> <p>13 the reason for why I conclude that it was</p> <p>14 rational for them only to take on those risks</p> <p>15 together with the collateral solely based on</p> <p>16 their desire to acquire the proprietary</p> <p>17 positions.</p> <p>18 Q. If Barclays purchases from Lehman both</p> <p>19 the exchange-traded derivatives position and the</p> <p>20 equity position that hedges that derivatives</p> <p>21 position, does it also need the margin</p> <p>22 associated with that derivatives position to</p> <p>23 cover its risk?</p> <p>24 MS. BLOOMER: Objection to the form of</p> <p>25 the question.</p>	<p>1 A. Leitner</p> <p>2 A. I believe paragraph 94 answers that</p> <p>3 question in substance. If not paragraph 94</p> <p>4 alone, then certainly paragraphs both prior to</p> <p>5 and preceding that.</p> <p>6 In a perfect world, with knowledge of</p> <p>7 the full facts, which frankly neither party to</p> <p>8 this transaction appears to have had, of the</p> <p>9 accurate facts, by the way, the parties could</p> <p>10 have negotiated a different deal than the one I</p> <p>11 believe they negotiated.</p> <p>12 MR. OXFORD: Can you read back my</p> <p>13 question, please?</p> <p>14 (Record read.)</p> <p>15 MS. BLOOMER: And again, I object and</p> <p>16 it's asked and answered.</p> <p>17 A. If the acquisition of this business</p> <p>18 were the subject of specific detailed</p> <p>19 negotiation, the parties would have dealt with</p> <p>20 the business, this subset of the business</p> <p>21 holistically. That's not our case. So you're</p> <p>22 asking me a hypothetical question, which is not</p> <p>23 these facts, and so the answer is, if that were</p> <p>24 possible, could it have been done? The answer</p> <p>25 is, well, sure. But there is no question that</p>

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<p>1 A. Leitner</p> <p>2 those facts did not exist in this case in any</p> <p>3 way, shape or form at any time.</p> <p>4 Q. Can you turn to paragraph 99 of your</p> <p>5 report, please, sir?</p> <p>6 A. 9, sorry?</p> <p>7 Q. 99.</p> <p>8 A. Okay.</p> <p>9 Q. Do you have it there, sir?</p> <p>10 A. I do.</p> <p>11 Q. You're referring in paragraph 99 to</p> <p>12 the timeframe of September 19, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And you say on page 48 that, "The one</p> <p>15 thing that was virtually certain by this time</p> <p>16 was that the vast majority -- and perhaps the</p> <p>17 entirety -- of the exchange-traded derivatives</p> <p>18 were essentially naked exposures. That is,</p> <p>19 Barclays had no assurance it was acquiring (and</p> <p>20 in most instances, knew that it was not</p> <p>21 acquiring) the other side of these positions."</p> <p>22 Do you see that, sir?</p> <p>23 A. Yes.</p> <p>24 Q. And you go on in paragraph 100 to say</p> <p>25 that, "In short, the circumstances as they</p>	<p>1 A. Leitner</p> <p>2 existed by the ends of the week of September 15,</p> <p>3 made it not just reasonable, but imperative that</p> <p>4 Barclays acquire all of the collateral held in</p> <p>5 respect of LBI's various ETD accounts."</p> <p>6 A. Right. I see that.</p> <p>7 Q. Is it your opinion, sir, that it was</p> <p>8 imperative that Barclays acquire all of the</p> <p>9 collateral held in respect of LBI's various ETD</p> <p>10 accounts at the beginning of the week of</p> <p>11 September 15?</p> <p>12 MS. BLOOMER: I'm going to, before he</p> <p>13 answers, object to the fact that you read</p> <p>14 certain pieces of the paragraph while</p> <p>15 clearly skipping a couple of sentences, and</p> <p>16 I would encourage the witness to read the</p> <p>17 entire paragraph before he answers your</p> <p>18 question.</p> <p>19 Q. Mr. Leitner, you should at all times</p> <p>20 feel free to read any part of any document that</p> <p>21 I put in front of you, including your own report</p> <p>22 that you wrote.</p> <p>23 A. My opinion has always been based upon</p> <p>24 the conclusion that, from Barclays' side, they</p> <p>25 were supposed to get all of the collateral</p>
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<p>1 A. Leitner</p> <p>2 securing the derivatives exposures from the</p> <p>3 beginning of the transaction.</p> <p>4 Let me be clear that the reason I</p> <p>5 reached that conclusion is because anyone</p> <p>6 rationally looking at the -- what they knew</p> <p>7 about the derivatives business and what they</p> <p>8 would be taking on was a set of clearing</p> <p>9 exposures that, without regard to the nature of</p> <p>10 the proprietary positions, would have only</p> <p>11 protected them from unquantifiable loss if they</p> <p>12 took on at least whatever margin was there</p> <p>13 because they wouldn't know at that time even</p> <p>14 whether they would have to put up more. So, at</p> <p>15 the very least, they would want to get whatever</p> <p>16 was there and that that had to be true from the</p> <p>17 beginning.</p> <p>18 So my point in paragraph 99 and 100 is</p> <p>19 that, by the end of the week, all the risks that</p> <p>20 could be anticipated in fact happened.</p> <p>21 MR. OXFORD: Can you read back my</p> <p>22 question?</p> <p>23 (Record read.)</p> <p>24 A. I guess I could have just said yes.</p> <p>25 MS. BLOOMER: When you're ready for a</p>	<p>1 A. Leitner</p> <p>2 break, we've been going about an hour.</p> <p>3 MR. OXFORD: We can take five minutes.</p> <p>4 (Recess; Time Noted: 10:52 A.M.)</p> <p>5 (Time Noted: 11:02 A.M.)</p> <p>6 BY MR. OXFORD:</p> <p>7 Q. You can have the Asset Purchase</p> <p>8 Agreement in front of you, and then also let --</p> <p>9 A. Yes, sir.</p> <p>10 Q. I'm going to hand you one other</p> <p>11 document that you have seen before that is the</p> <p>12 Clarification Letter in this case that has</p> <p>13 previously been marked as Exhibit 25.</p> <p>14 You've seen the Clarification Letter</p> <p>15 before, sir?</p> <p>16 A. Yes.</p> <p>17 Q. Do you see that in paragraph 1(A)(ii),</p> <p>18 the Clarification Letter changes the definition</p> <p>19 of "purchased assets"?</p> <p>20 A. Okay.</p> <p>21 Q. And specifically, it changes the</p> <p>22 definition of "purchased assets" as defined in</p> <p>23 the Asset Purchase Agreement that we were</p> <p>24 looking at earlier, do you see that?</p> <p>25 A. I've read it. I see what it says. I</p>

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<p>1 A. Leitner</p> <p>2 wouldn't characterize it, but, you know, it says</p> <p>3 what it says.</p> <p>4 Q. Would you disagree with my</p> <p>5 characterization?</p> <p>6 A. That it -- that --</p> <p>7 Q. That paragraph 1(A)(ii) changes the</p> <p>8 definition of "purchased assets" as that</p> <p>9 definition was reflected in the Asset Purchase</p> <p>10 Agreement?</p> <p>11 MS. BLOOMER: Objection to form.</p> <p>12 A. I mean, look, not to be a pain here,</p> <p>13 but it says what it says, and with regard to</p> <p>14 specific clauses in the original agreement, it</p> <p>15 says, you know, it -- the point is I don't know</p> <p>16 the extent to which it actually changes those</p> <p>17 clauses or changes the whole thing, but I'll</p> <p>18 accept for purposes of moving forward here that,</p> <p>19 yes, it does change the definition of "purchased</p> <p>20 assets." So ...</p> <p>21 Q. Thank you. And it includes in that</p> <p>22 definition of "purchased assets" on page 2 after</p> <p>23 capital C, "exchange-traded derivatives," and in</p> <p>24 parens, "and any property that may be held to</p> <p>25 secure obligations under such derivatives,"</p>	<p>1 A. Leitner</p> <p>2 close parens, "and collateralized short-term</p> <p>3 agreements," yes?</p> <p>4 A. I see what it says.</p> <p>5 Q. Do you understand the Clarification</p> <p>6 Letter, in particular that clause that I just</p> <p>7 read, to reflect the agreement of Lehman and</p> <p>8 Barclays with respect to the transfer of</p> <p>9 exchange-traded derivatives?</p> <p>10 MS. BLOOMER: Objection to form.</p> <p>11 A. I'd like to read the whole paragraph</p> <p>12 to myself again just to refresh my recollection,</p> <p>13 and I'd like to -- sorry, I mean read the whole</p> <p>14 section, so ...</p> <p>15 Q. Yes, please do.</p> <p>16 (Document review.)</p> <p>17 MS. BLOOMER: Object to the form of</p> <p>18 the question.</p> <p>19 (Discussion off the record.)</p> <p>20 A. Okay. I've read the whole thing now.</p> <p>21 Thank you.</p> <p>22 MS. BLOOMER: The whole agreement</p> <p>23 again?</p> <p>24 THE WITNESS: No, no, I read the whole</p> <p>25 Section 1 --</p>
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<p>1 A. Leitner</p> <p>2 MS. BLOOMER: Because the question</p> <p>3 asks you about the agreement. And maybe</p> <p>4 that's why I'm objecting, just for the</p> <p>5 record.</p> <p>6 A. Okay, sorry. The point I was making</p> <p>7 is that I asked for a pause so I could read</p> <p>8 Section 1 of the Clarification Letter, which I</p> <p>9 have now read.</p> <p>10 Q. Okay. Great.</p> <p>11 MR. OXFORD: Can you read back,</p> <p>12 please, Kathy, my question that begins "do</p> <p>13 you understand"?</p> <p>14 (Record read.)</p> <p>15 A. I read it in the context of the entire</p> <p>16 paragraph that begins by saying, "The purchased</p> <p>17 assets means all of the assets of seller used</p> <p>18 primarily in the business or necessary for the</p> <p>19 operation of the business," and then clause 2,</p> <p>20 so that's the -- that's the basis on which I</p> <p>21 understand that.</p> <p>22 So I take it in context, and in that</p> <p>23 regard, yes, I think it refers to the</p> <p>24 exchange-traded derivatives and reflects what</p> <p>25 the parties' continuing understanding to be with</p>	<p>1 A. Leitner</p> <p>2 regard to them.</p> <p>3 Q. Okay. Thank you. Could you also</p> <p>4 direct your attention, sir, to paragraph 3 of</p> <p>5 the Clarification Letter, sir. It's on page 3,</p> <p>6 and it's titled "Assumed and Excluded</p> <p>7 Liabilities."</p> <p>8 A. Okay.</p> <p>9 Q. Do you see four lines up from the</p> <p>10 bottom of the paragraph it reads, "Consistent</p> <p>11 with the other provisions of this letter, no</p> <p>12 liabilities described in Clause (i) of the</p> <p>13 definition of assumed liabilities shall be</p> <p>14 'assumed liabilities.'" Do you see that, sir?</p> <p>15 A. Yes.</p> <p>16 Q. And if you could turn to the APA and</p> <p>17 page 12, could you review Clause 2.3(i) and tell</p> <p>18 me whether you agree that the Clarification</p> <p>19 Letter does not require Barclays to assume any</p> <p>20 liabilities for Lehman's exchange-traded</p> <p>21 derivatives?</p> <p>22 MS. BLOOMER: I object to the extent</p> <p>23 that the witness is not here to interpret</p> <p>24 the agreement for you, but if you can</p> <p>25 answer.</p>

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<p>1 A. Leitner</p> <p>2 A. So what's the question?</p> <p>3 (Record read.)</p> <p>4 A. Well, you know, I'm -- I don't want to</p> <p>5 try to interpret this contract, but, you know,</p> <p>6 my understanding has always been that the</p> <p>7 parties agreed that the exchange-traded</p> <p>8 derivatives clearing operation would be assumed</p> <p>9 by Barclays, and in fact, it was assumed by</p> <p>10 Barclays, and so if there is an inconsistency in</p> <p>11 the language, in fact, Barclays took on all</p> <p>12 those responsibilities and liabilities, which</p> <p>13 seems consistent with the paragraph that we read</p> <p>14 first in the -- and certainly consistent with</p> <p>15 what I understood the agreement to be.</p> <p>16 If I were interpreting this, you know,</p> <p>17 I guess I would say that, you know, in fact the</p> <p>18 short positions are difficult to transfer and</p> <p>19 so -- the short positions of securities, where</p> <p>20 you have to borrow in order to make a delivery.</p> <p>21 So I'm not -- I wasn't the lawyers, I wasn't</p> <p>22 involved in this, but if I were to guess, that's</p> <p>23 what I would assume they meant.</p> <p>24 Q. Is it your testimony, sir, that as you</p> <p>25 interpret the Clarification Letter to the best</p>	<p>1 A. Leitner</p> <p>2 of your ability, you believe that liability for</p> <p>3 the short positions in Lehman's exchange-traded</p> <p>4 derivative portfolio is excluded from the deal?</p> <p>5 MS. BLOOMER: Objection.</p> <p>6 Mischaracterizes his testimony.</p> <p>7 A. I don't know what it means. I was</p> <p>8 focusing only on the exchange-traded derivatives</p> <p>9 portion of the paragraph 1, and I think your --</p> <p>10 I thought your question was does the reference</p> <p>11 in the later paragraph mean that somehow</p> <p>12 Barclays wasn't taking on the obligations for</p> <p>13 the exchange-traded derivatives. Wasn't that</p> <p>14 your question?</p> <p>15 Q. My question is does the Clarification</p> <p>16 Letter, irrespective of any other aspect of the</p> <p>17 deal that you may believe are relevant, does the</p> <p>18 Clarification Letter relieve Barclays of its</p> <p>19 obligations to assume liabilities under the</p> <p>20 exchange-traded derivatives in Lehman's</p> <p>21 portfolio?</p> <p>22 MS. BLOOMER: Objection to form.</p> <p>23 A. Relieve? Relieve Barclays of the</p> <p>24 obligations?</p> <p>25 Q. Yes.</p>
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<p>1 A. Leitner</p> <p>2 A. On the exchange-traded derivatives,</p> <p>3 no, it does not, and did not.</p> <p>4 Q. Even though there are no derivative</p> <p>5 contracts under the definition of "assumed</p> <p>6 liabilities" pursuant to paragraph 3 of the</p> <p>7 Clarification Letter?</p> <p>8 MS. BLOOMER: Objection to the</p> <p>9 characterization of the agreement and to the</p> <p>10 expert's scope.</p> <p>11 A. I'm sorry, Mr. Oxford, you've got me</p> <p>12 confused. Okay? If that was your objective,</p> <p>13 you have succeeded, but I'm sure it wasn't.</p> <p>14 Q. It was not, but it sometimes happens</p> <p>15 along the way.</p> <p>16 A. Okay.</p> <p>17 Q. You would not be the first and you may</p> <p>18 not be the last.</p> <p>19 MS. BLOOMER: Is that a request that</p> <p>20 he clarify his question?</p> <p>21 A. I mean, if I understand your question,</p> <p>22 if you follow the logic, if I understood it</p> <p>23 correctly, the Lehman estate and the SIPA</p> <p>24 Trustees would have woken up on Monday morning</p> <p>25 with obligations for all the short derivatives</p>	<p>1 A. Leitner</p> <p>2 and Lehman would just have been, you know,</p> <p>3 holding the longs. I don't think that was the</p> <p>4 deal.</p> <p>5 Q. That is my logic, sir. I'm not asking</p> <p>6 you whether or not that's the deal. I'm asking</p> <p>7 you whether or not you believe that's what the</p> <p>8 Clarification Letter reflects.</p> <p>9 MS. BLOOMER: And I object to the</p> <p>10 request that this expert interpret the</p> <p>11 contract.</p> <p>12 A. Yes, I -- the answer is I have no idea</p> <p>13 what was intended to be accomplished by that</p> <p>14 paragraph, by that reference that you mention in</p> <p>15 paragraph 3 of the Clarification Letter.</p> <p>16 Q. You said that you didn't think it was</p> <p>17 the deal that the SIPA Trustee would retain the</p> <p>18 obligations under the derivatives and Barclays</p> <p>19 would take the assets, the long positions --</p> <p>20 A. Correct.</p> <p>21 Q. -- in the portfolio, correct?</p> <p>22 And in fact, that deal wouldn't make</p> <p>23 any sense, would it, Mr. Leitner, because --</p> <p>24 A. For either party.</p> <p>25 MS. BLOOMER: Just let him finish his</p>

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<p>1 A. Leitner</p> <p>2 question so you can be sure you're answering</p> <p>3 what's being asked.</p> <p>4 Q. And tell me why it wouldn't make sense</p> <p>5 for either party?</p> <p>6 A. It wouldn't have made any sense for</p> <p>7 the Lehman trustee because it would have had</p> <p>8 exposures that were -- that I believe it was not</p> <p>9 in a position to manage based on, you know, my</p> <p>10 understanding of what was going on. It may be</p> <p>11 an incomplete understanding, but that that was,</p> <p>12 you know, one of the real benefits to the estate</p> <p>13 was to in fact relieve itself of the need to</p> <p>14 continue to manage the derivatives book -- I'm</p> <p>15 sorry, the clearing operation of the derivatives</p> <p>16 book.</p> <p>17 Q. Tell me why the deal that we've agreed</p> <p>18 doesn't make any sense wouldn't make any sense</p> <p>19 for Barclays?</p> <p>20 A. In my report I refer to a number of</p> <p>21 risks associated with clearing exchange-traded</p> <p>22 derivatives, so I would let my report speak for</p> <p>23 itself with regard to the characterization of</p> <p>24 those risks. All of those risks would have had</p> <p>25 to have been assumed by the estate and the</p>	<p>1 A. Leitner</p> <p>2 trustee, the volatility risk of continuing</p> <p>3 market exposure, the clearance and settlement</p> <p>4 risks for -- related to exercise of options;</p> <p>5 with regard to futures, the need to potentially</p> <p>6 unwind at a loss futures positions; and I don't</p> <p>7 know what you'd do with the exposures that</p> <p>8 you're responsible for on the short side related</p> <p>9 to, you know, the clearing of the affiliate</p> <p>10 businesses, so -- for which you -- I have no</p> <p>11 idea what margin or assets they continue to hold</p> <p>12 for that.</p> <p>13 So of all the risks that I describe in</p> <p>14 my report, they would have been solely assumed</p> <p>15 by the trustee. I think it was to the trustee's</p> <p>16 advantage and the estate's advantage to get rid</p> <p>17 of those unquantifiable risks.</p> <p>18 Q. Looking at paragraph 1(C) of the</p> <p>19 Clarification Letter, sir, I'd like you to have</p> <p>20 in mind the following assumption: If paragraph</p> <p>21 1(C) -- sorry, 1(A)(ii) of the Clarification</p> <p>22 Letter were to mean that Barclays gets all of</p> <p>23 the exchange-traded derivatives, that is, the</p> <p>24 long positions subject to the short positions;</p> <p>25 and that if the long positions exceed the shorts</p>
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<p>1 A. Leitner</p> <p>2 at a particular exchange at the close, then</p> <p>3 those derivatives are an asset that go to</p> <p>4 Barclays, but if the short positions exclude the</p> <p>5 long -- sorry, the short positions exceed the</p> <p>6 long position, then those derivatives are no</p> <p>7 longer an asset and don't have to be assumed by</p> <p>8 Barclays.</p> <p>9 On that interpretation of the</p> <p>10 Clarification Letter, would that be a bad deal</p> <p>11 for Barclays?</p> <p>12 MS. BLOOMER: Objection to the form of</p> <p>13 the question.</p> <p>14 Q. And if you would like Kathy to read it</p> <p>15 back.</p> <p>16 A. No, I understand can question. I</p> <p>17 mean, your question is related to a subset of a</p> <p>18 subset of the total exposures that Barclays took</p> <p>19 on. There were several accounts that Lehman had</p> <p>20 that on its books that were reflected at the</p> <p>21 Options Clearing Corp. They were proprietary</p> <p>22 accounts, market-making accounts, customer</p> <p>23 accounts and so forth.</p> <p>24 So what you're asking about is a</p> <p>25 subset of the proprietary positions, I believe,</p>	<p>1 A. Leitner</p> <p>2 that related to positions Lehman Brothers put on</p> <p>3 for itself even though the proprietary account</p> <p>4 also included affiliate positions. What are we</p> <p>5 doing with those?</p> <p>6 I mean, so your -- it's virtually</p> <p>7 impossible to, you know, answer your question</p> <p>8 unless you're going to tell me, you know,</p> <p>9 what -- whether Lehman is going to actually</p> <p>10 retain clearing responsibility for everything</p> <p>11 else, yes or no. I mean, because we have to</p> <p>12 understand what really happened here, right?</p> <p>13 Barclays stepped into Lehman's shoes</p> <p>14 with respect to clearing every exchange-traded</p> <p>15 derivative that Lehman had on its books</p> <p>16 regardless of whether customers came over,</p> <p>17 regardless of whether the affiliates margined</p> <p>18 those positions, or anything else. So it is</p> <p>19 extremely difficult to take a subset of a subset</p> <p>20 and make any sense out of it. That's the best I</p> <p>21 can do.</p> <p>22 Q. Assuming we're talking here, sir, only</p> <p>23 about Lehman's proprietary positions, not</p> <p>24 positions they were clearing for affiliates or</p> <p>25 other customers, can you answer my question as</p>

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<p>1 A. Leitner</p> <p>2 to whether or not that would be a bad deal for</p> <p>3 Barclays?</p> <p>4 MS. BLOOMER: Objection to form of the</p> <p>5 question.</p> <p>6 A. Are you -- what happens to the -- by</p> <p>7 the way, when? What point in time?</p> <p>8 Q. At the closing of the transactions.</p> <p>9 A. On Monday? Very interesting, because</p> <p>10 who's got the settlement risk for all the</p> <p>11 exercised options over the weekend? Does the</p> <p>12 trustee retain those risks under your</p> <p>13 hypothetical for all the shorts? They would be</p> <p>14 responsible for, normally, for settlements. So,</p> <p>15 they do? They don't?</p> <p>16 Q. Let's take the first option. They do,</p> <p>17 the trustee does.</p> <p>18 A. Actually, it doesn't matter,</p> <p>19 because -- sorry, your hypothetical was would it</p> <p>20 have been a good deal?</p> <p>21 Q. Would it have been a rational deal for</p> <p>22 Barclays to agree to if they get the longs</p> <p>23 subject to the shorts?</p> <p>24 A. For Barclays to have agreed to that?</p> <p>25 Q. Yes.</p>	<p>1 A. Leitner</p> <p>2 MS. BLOOMER: Objection to the form of</p> <p>3 the question and beyond the scope of his</p> <p>4 opinion.</p> <p>5 A. I just can't answer the question. I</p> <p>6 mean, I just -- there is -- there is no way to</p> <p>7 approach it to give you an answer that's a yes</p> <p>8 or no answer.</p> <p>9 Q. I'm handing you, Mr. Leitner, what has</p> <p>10 previously been marked as Exhibit 622.</p> <p>11 A. Yes, sir.</p> <p>12 Q. You see that that's the declaration of</p> <p>13 Mr. Ed Rosen?</p> <p>14 A. Yes, sir.</p> <p>15 Q. You read Mr. Rosen's testimony?</p> <p>16 A. Yes.</p> <p>17 Q. In preparation for your testimony</p> <p>18 today?</p> <p>19 A. Yes, I did.</p> <p>20 Q. Did you also speak to Mr. Rosen?</p> <p>21 A. No.</p> <p>22 Q. Have you read Mr. Rosen's declaration?</p> <p>23 A. Yes.</p> <p>24 Q. If you could turn your attention to</p> <p>25 paragraphs 4 and 5 of Mr. Rosen's declaration.</p>
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<p>1 A. Leitner</p> <p>2 If you could just review that to yourself and</p> <p>3 let me know when you've done so, please.</p> <p>4 (Document review.)</p> <p>5 A. Okay.</p> <p>6 Q. Do you see that Mr. Rosen states in</p> <p>7 his declaration that, "The language contained in</p> <p>8 a draft of the Clarification Letter circulated</p> <p>9 on September 20 reflected the business deal that</p> <p>10 Barclays would receive the margin as well as the</p> <p>11 derivatives in any account for which Barclays</p> <p>12 becomes responsible at closing"?</p> <p>13 A. You're referring to paragraph 4?</p> <p>14 Q. And to paragraph 5, sir.</p> <p>15 A. Paragraph 4 and 5 refer to, as far as</p> <p>16 I can understand it, to various drafts being</p> <p>17 passed back and forth between the lawyers on --</p> <p>18 of the drafts of the Clarification Letter being</p> <p>19 passed back and forth on September 20, and your</p> <p>20 question was what? You wanted me to refer to</p> <p>21 specifically to what aspect of those drafts?</p> <p>22 Q. I asked you whether you agreed with me</p> <p>23 that Mr. Rosen states in his declaration that</p> <p>24 the language contained in the draft</p> <p>25 Clarification Letter circulated on September 20,</p>	<p>1 A. Leitner</p> <p>2 which he refers to in paragraph 4 of his</p> <p>3 declaration --</p> <p>4 A. Okay, so it is paragraph 4.</p> <p>5 Q. -- reflected the business deal that</p> <p>6 Barclays would receive the margin as well as the</p> <p>7 derivatives in any account for which Barclays</p> <p>8 became responsible at the closing?</p> <p>9 MS. BLOOMER: And I object to the</p> <p>10 characterization of the document. It speaks</p> <p>11 for itself and reads differently.</p> <p>12 A. Well, Mr. Rosen says in paragraph 4,</p> <p>13 "I understand that the trustee's position that</p> <p>14 the removal of language contained in 1(d) of the</p> <p>15 draft of the Clarification Letter reflects an</p> <p>16 agreement that Barclays was not acquiring cash</p> <p>17 margin." He goes on to say that position is</p> <p>18 incorrect. There was, to my or my partner's</p> <p>19 knowledge, never any such agreement or</p> <p>20 discussion.</p> <p>21 So your question is what exactly?</p> <p>22 (Record read.)</p> <p>23 Q. And sir, just before you answer, to</p> <p>24 answer that question, I have directed you a</p> <p>25 couple of times to paragraph 4 and to paragraph</p>

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<p>1 A. Leitner</p> <p>2 5. I believe in order to answer my question you</p> <p>3 will have to read paragraph 5, particularly the</p> <p>4 first two sentences.</p> <p>5 MS. BLOOMER: Objection to the form.</p> <p>6 You're just asking him to tell you whether</p> <p>7 he says among the things he says in 4 and 5</p> <p>8 what you just said exactly? Is that the</p> <p>9 question?</p> <p>10 MR. OXFORD: We have the question four</p> <p>11 times now. We can have it read back a fifth</p> <p>12 time.</p> <p>13 MS. BLOOMER: I object to the form of</p> <p>14 the question.</p> <p>15 A. Okay. Paragraphs 4 and 5 express Mr.</p> <p>16 Rosen's belief that the transaction being</p> <p>17 clarified in the Clarification Letter was that</p> <p>18 Barclays would acquire all margin, including</p> <p>19 cash, associated with exchange-traded</p> <p>20 derivatives positions.</p> <p>21 Q. Thank you. Do you agree with Mr.</p> <p>22 Rosen's understanding of the transaction between</p> <p>23 Barclays and Lehman?</p> <p>24 MS. BLOOMER: Objection. Form and</p> <p>25 foundation.</p>	<p>1 A. Leitner</p> <p>2 A. My opinion, my opinion, relates to</p> <p>3 what a rational party would do under the</p> <p>4 circumstances. I have said in my opinion that I</p> <p>5 see nothing -- I think I'm just characterizing</p> <p>6 it generally -- that I see nothing in any of the</p> <p>7 agreements or conduct of the parties as</p> <p>8 inconsistent with them acting rationally with</p> <p>9 regard to this transaction, that is, as</p> <p>10 naturally by both the Barclays' side and by the</p> <p>11 trustee's side.</p> <p>12 So to the extent that Mr. Rosen is</p> <p>13 simply saying that, indeed, he believes the</p> <p>14 parties did always have this understanding is</p> <p>15 simply, you know, consistent with one of the</p> <p>16 predicates of my opinion.</p> <p>17 Q. Is it your understanding of the</p> <p>18 business deal between Barclays and Lehman that</p> <p>19 Barclays would get the margin as well as the</p> <p>20 derivatives in any account for which they</p> <p>21 assumed responsibility at closing?</p> <p>22 MS. BLOOMER: Objection to form.</p> <p>23 A. It is my understanding that that's</p> <p>24 what the parties agreed to. I'm -- without</p> <p>25 interpreting the contract, I was -- I believe</p>
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<p>1 A. Leitner</p> <p>2 that was the rational thing to do. It appears</p> <p>3 that's what the parties did.</p> <p>4 Q. Could you turn to your report, sir, in</p> <p>5 particular to footnote 1 in paragraph 10.</p> <p>6 A. I'm sorry, paragraph?</p> <p>7 Q. Footnote 1 on page 10.</p> <p>8 A. Yes, sir.</p> <p>9 Q. Do you have that in front of you, sir?</p> <p>10 A. Yes.</p> <p>11 Q. Do you see that you list in footnote 1</p> <p>12 exchanges on which LBI traded exchange-traded</p> <p>13 derivatives, correct?</p> <p>14 MS. BLOOMER: I would --</p> <p>15 A. Which paragraph are we looking at?</p> <p>16 MS. BLOOMER: I would ask the witness</p> <p>17 to refer to the text as well as the</p> <p>18 footnotes so he's reading it in context and</p> <p>19 can answer the question.</p> <p>20 A. I don't have the page.</p> <p>21 Q. Page 10, footnote 1.</p> <p>22 A. Again, I -- you have to bear with my</p> <p>23 hearing issues.</p> <p>24 Sorry, what's your question now? I</p> <p>25 see there's a list of exchanges.</p>	<p>1 A. Leitner</p> <p>2 Q. On which Lehman traded exchange-traded</p> <p>3 derivatives, correct?</p> <p>4 MS. BLOOMER: And again, I'm going to</p> <p>5 object and suggest that you read the text</p> <p>6 and the footnotes so you understand the</p> <p>7 question and the context in which the</p> <p>8 footnote is provided.</p> <p>9 A. The reference on page 10 is to</p> <p>10 clearing organizations that I understood Lehman</p> <p>11 was a clearing member of. Some of them are</p> <p>12 derivatives clearing organizations and some of</p> <p>13 them clear securities. And your question is?</p> <p>14 Q. Is it your understanding of the</p> <p>15 transaction between Lehman and Barclays, sir,</p> <p>16 that if Barclays did not assume responsibility</p> <p>17 for the accounts at any of these exchanges, they</p> <p>18 would not be entitled to the margin in</p> <p>19 connection with the derivatives at any of those</p> <p>20 exchanges?</p> <p>21 A. My understanding is that, in</p> <p>22 connection with some of the exchanges on which</p> <p>23 exchange-traded derivatives were traded,</p> <p>24 particularly the foreign exchanges, LBI was not</p> <p>25 a clearing member but was dealing through some</p>

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<p>1 A. Leitner 2 clearing broker other than themselves. 3 With respect to the Option Clearing 4 Corp. and the CME, my understanding was that LBI 5 was a direct clearing member and directly 6 responsible to the clearing house. With respect 7 to the other exchanges, my understanding is that 8 they traded through third parties. 9 And your question is? 10 Q. Is it your understanding of the 11 transaction between Lehman and Barclays, sir, 12 that if Barclays didn't assume responsibility 13 for Lehman's accounts at or in connection with 14 the trading at these exchanges listed in 15 footnote 1, then Barclays would not be entitled 16 to the margin associated with the derivatives in 17 Lehman's portfolio at those exchanges? 18 MS. BLOOMER: Object to form. 19 A. Yes. 20 Q. Do you have an opinion, sir, on 21 whether or not the agreement between Barclays 22 and Lehman transferred to Lehman -- sorry, 23 transferred to Barclays -- there I go -- 24 surprised it took so long -- the exchange 25 memberships that Lehman held at any clearing</p>	<p>1 A. Leitner 2 organization or derivatives exchange? 3 MS. BLOOMER: Objection. Assumes 4 facts not in evidence. 5 A. I am not aware of any transfer of 6 exchange memberships at all. With regard to 7 clearing organizations, my understanding is that 8 Barclays was a clearing member of OCC and that 9 LBI was a member of OCC, but that it was not 10 necessary to assume the positions of Lehman that 11 Barclays acquire any additional memberships to 12 accomplish that. 13 Q. At the OCC, other than the clearing 14 fund, would Lehman have a membership of the OCC 15 that was valuable as an asset? 16 A. Was the membership an asset? 17 Q. Yes. 18 A. Is that your question? 19 I have no idea. I mean, you mean 20 asset on the books of the entity? 21 Q. An asset in any sense, sir. 22 MS. BLOOMER: Objection to form. 23 A. As a business matter, it is an asset 24 to be a clearing member of an exchange. You 25 don't have something that's transferable.</p>
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<p>1 A. Leitner 2 Therefore, you don't have an asset in a normally 3 understood sense of being able to sell something 4 to someone else. So that would be my answer to 5 whether or not it was an asset. 6 As a requirement of membership, you 7 have to maintain a clearing fund deposit which 8 in size, as I mention in my report, is based 9 upon the amount of business you do. 10 Q. Turning to the -- 11 Sorry. I didn't mean to interrupt. 12 Are you finished? 13 A. Go ahead. 14 Q. Turning to exchange membership, sir, 15 you said you're not aware of any transfers of 16 exchange memberships between Lehman and 17 Barclays, correct? 18 A. Right. 19 Q. And you're not aware of any business 20 deal between Lehman and Barclays that would 21 transfer the exchange memberships to -- 22 MS. BLOOMER: I'm going to -- 23 MR. OXFORD: Please let me finish, 24 Trish. 25 Q. -- from Lehman to Barclays?</p>	<p>1 A. Leitner 2 MS. BLOOMER: I'm going to object to 3 the form of the question and the undefined 4 definition of the term "memberships"? 5 A. No, I'm not aware of any. 6 Q. Taking the example of Lehman's 7 exchange membership at CME, sir, do you believe 8 Barclays -- withdrawn. Was Barclays also a 9 member of the CME? 10 A. I believe that there was a Barclays 11 entity that was a member of the CME. I cannot 12 be assured that it was Barclays Capital, Inc. 13 That I'm not sure of. 14 Q. Can you think of any reason why 15 Barclays Capital Inc. would need to acquire 16 Lehman's membership at the Chicago Merc, or the 17 CME? 18 MS. BLOOMER: Objection to the 19 question. Beyond the scope of the witness's 20 report and opinion. 21 A. I don't -- I don't have any -- I've 22 not researched the question and I'm not -- have 23 not been asked to give an opinion on it, and I 24 don't know any facts relating to the CME 25 membership.</p>

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<p>1 A. Leitner</p> <p>2 Q. Turning to paragraph 19 of your</p> <p>3 report, sir. After setting out what you believe</p> <p>4 to be Barclays' position in this dispute, seven</p> <p>5 lines down you write, "Not only are the</p> <p>6 governing agreements entirely consistent with</p> <p>7 this position, but so too are the record facts,</p> <p>8 all of which lead me to conclude, based on my</p> <p>9 experience and expertise in the derivatives</p> <p>10 industry, that no rational purchaser would have</p> <p>11 agreed to acquire the ETDs, or to assume the</p> <p>12 financial responsibility of a clearing broker</p> <p>13 with respect to such ETDs, without also</p> <p>14 receiving LBI's rights with respect to the</p> <p>15 entirety of the posted collateral."</p> <p>16 That's your opinion, sir?</p> <p>17 A. Yes.</p> <p>18 Q. And then you go on to list the three</p> <p>19 separate types of risks that Barclays faced</p> <p>20 which are the bases of your opinion that I just</p> <p>21 read, correct?</p> <p>22 A. Yes. And by the way, as I think I</p> <p>23 testified before, I would add to those three</p> <p>24 risks the what I described as operational risk,</p> <p>25 which I believe was always there but became</p>	<p>1 A. Leitner</p> <p>2 clearer to me in reviewing declarations and</p> <p>3 testimony after I completed this report.</p> <p>4 Q. It's your opinion, sir, that Barclays</p> <p>5 did not have enough information to value the</p> <p>6 exchange-traded derivatives that Lehman held as</p> <p>7 of the 16th of September, correct?</p> <p>8 A. I don't believe I testified that they</p> <p>9 didn't have the ability to value. I may have</p> <p>10 said they didn't have the ability to value, but</p> <p>11 more importantly, they didn't have the ability</p> <p>12 to quantify the exposures because the value of</p> <p>13 the positions that they were acquiring in the</p> <p>14 proprietary sense, as I indicated before, had</p> <p>15 little relation to the actual exposures they</p> <p>16 would be acquiring in taking on the clearing</p> <p>17 business.</p> <p>18 Q. Leaving aside the exposures on the</p> <p>19 clearing business for the purposes of my</p> <p>20 question, sir, is it your testimony and your</p> <p>21 opinion that Barclays had enough information to</p> <p>22 be able to quantify the exposure to Lehman's</p> <p>23 proprietary exchange-traded derivatives?</p> <p>24 MS. BLOOMER: Objection to the form of</p> <p>25 the question.</p>
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<p>1 A. Leitner</p> <p>2 Q. On September 16?</p> <p>3 A. It is, based upon my review of the</p> <p>4 facts, it's my understanding and I guess my</p> <p>5 opinion that at no time, whether it was the</p> <p>6 16th, 17th, 18th, 19th, that they had the</p> <p>7 ability to quantify with any degree of certainty</p> <p>8 either what the value of those positions was or</p> <p>9 the exposures to the clearing book.</p> <p>10 Q. I believe you testified earlier about</p> <p>11 this topic and described those risks as unknown</p> <p>12 and unquantifiable risks?</p> <p>13 MS. BLOOMER: Objection to form.</p> <p>14 A. I mean, you certainly knew generally</p> <p>15 the categories of risks, but you did not know --</p> <p>16 you could not quantify them, and certainly</p> <p>17 unknown in the sense that you didn't know how</p> <p>18 much of the proprietary positions were carried</p> <p>19 for the affiliates. So, in that sense, it was</p> <p>20 not known because that was an additional credit</p> <p>21 risk.</p> <p>22 Q. When did Barclays first learn of the</p> <p>23 margin at the OCC that was related to LBI's</p> <p>24 derivatives book at the OCC?</p> <p>25 MS. BLOOMER: Objection.</p>	<p>1 A. Leitner</p> <p>2 A. I don't actually remember the precise</p> <p>3 point in time when they had that information. I</p> <p>4 believe that, generally speaking, that it wasn't</p> <p>5 until the weekend, but they may have gotten a</p> <p>6 report sooner than that.</p> <p>7 Q. Can you turn to paragraph 106 of your</p> <p>8 report, please, sir.</p> <p>9 Do you have it there, sir?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Do you see, Mr. Leitner, "Because</p> <p>12 Barclays had to decide whether to close the</p> <p>13 transaction without sufficient knowledge of the</p> <p>14 value and exposure of the ETD positions, it was</p> <p>15 taking a blind risk with respect to those</p> <p>16 positions." Do you see that?</p> <p>17 A. Yes, I do.</p> <p>18 Q. You go on to say that that is</p> <p>19 "something that no rational purchaser of ETDs</p> <p>20 would be willing to do without the belief that</p> <p>21 it was receiving a cushion in the form of excess</p> <p>22 margin posted in the accounts and clearing fund</p> <p>23 deposits." Do you see that?</p> <p>24 A. Yes, I do.</p> <p>25 Q. That's your opinion, sir?</p>

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<p>1 A. Leitner</p> <p>2 A. Yes, it is.</p> <p>3 Q. Do you agree that even if Barclays</p> <p>4 were to obtain the margin and clearing fund</p> <p>5 deposits that does not -- Barclays quantified</p> <p>6 the risk that it is taking with respect to the</p> <p>7 ETD positions?</p> <p>8 MS. BLOOMER: Objection to the form of</p> <p>9 the question.</p> <p>10 A. Sorry, just read that. That does not</p> <p>11 what? Just read that back.</p> <p>12 Q. It does not quantify the risk that</p> <p>13 Barclays is taking with respect to those</p> <p>14 positions?</p> <p>15 MS. BLOOMER: Objection to the form of</p> <p>16 the question.</p> <p>17 A. Let me make sure I understand the</p> <p>18 question. You're asking me that if, even if all</p> <p>19 the margin came over, that does not necessarily</p> <p>20 quantify the risks that they took?</p> <p>21 Q. Yes.</p> <p>22 A. That's correct.</p> <p>23 Q. So the risk that Barclays is taking</p> <p>24 under the transaction as you believe it to have</p> <p>25 happened, is still a blind risk for Barclays,</p>	<p>1 A. Leitner</p> <p>2 correct?</p> <p>3 MS. BLOOMER: Objection to form.</p> <p>4 A. On the closing date, yes, it was still</p> <p>5 a blind risk.</p> <p>6 Q. Why would a rational purchaser take</p> <p>7 such a blind risk, sir, in your opinion?</p> <p>8 A. Because they got the margin along with</p> <p>9 the positions.</p> <p>10 Q. But if they get the margin along with</p> <p>11 the position, the risk is still blind and their</p> <p>12 potential exposure is less than if they don't</p> <p>13 have the margin, but their potential exposure is</p> <p>14 still unlimited and unquantifiable, correct?</p> <p>15 A. That's correct, but it's better than</p> <p>16 the alternative.</p> <p>17 Q. Right. On the theory that more money</p> <p>18 is better than less money?</p> <p>19 MS. BLOOMER: Objection.</p> <p>20 Q. It's better than the alternative,</p> <p>21 correct?</p> <p>22 MS. BLOOMER: Objection to form.</p> <p>23 A. Correct.</p> <p>24 Q. Do you believe it was rational for</p> <p>25 Barclays to conclude the deal you say they did,</p>
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<p>1 A. Leitner</p> <p>2 which was to take an unquantifiable risk on</p> <p>3 Barclays exchange-traded derivatives positions,</p> <p>4 albeit mitigated by the margin associated with</p> <p>5 those positions?</p> <p>6 A. I'm sorry, was that a question?</p> <p>7 Q. Yes.</p> <p>8 A. I thought it was a statement.</p> <p>9 Q. Is says "do you believe" --</p> <p>10 MS. BLOOMER: Do you believe it</p> <p>11 rational for Barclays to do what it did?</p> <p>12 A. Yes.</p> <p>13 Q. Why?</p> <p>14 A. They were taking a business risk and</p> <p>15 they had the capital, I believe, to -- and the</p> <p>16 personnel to be able to manage those risks at</p> <p>17 some point in time. So they could move to,</p> <p>18 quickly to a point where they could quantify the</p> <p>19 risks so they were not taking an entirely</p> <p>20 open-ended exposure, but -- that is, it couldn't</p> <p>21 go to infinity, but once they had all the data,</p> <p>22 they can begin to figure out what to do with it.</p> <p>23 Q. Is it your opinion, sir, that after</p> <p>24 the closing, Barclays was able to manage the</p> <p>25 risk associated with the exchange-traded</p>	<p>1 A. Leitner</p> <p>2 derivatives portfolio that they assumed that you</p> <p>3 said prior to closing was unquantifiable?</p> <p>4 MS. BLOOMER: Objection to form.</p> <p>5 A. I'm aware from testimony I've read</p> <p>6 that they began to take action to mitigate</p> <p>7 its -- their market exposure. I don't know what</p> <p>8 other steps they took to manage the other</p> <p>9 exposures that they had both in terms of credit</p> <p>10 and capital exposures, but just, again, and they</p> <p>11 also worked hard to get a handle on the</p> <p>12 operational issues involved in taking over the</p> <p>13 positions, but it took them a while to do that</p> <p>14 and there may well have been, you know, market</p> <p>15 exposure insofar as it took them time to get</p> <p>16 everything under control.</p> <p>17 Q. Your opinion as reflected in paragraph</p> <p>18 106, sir, is that no rational purchaser of</p> <p>19 exchange-traded derivatives would be willing to</p> <p>20 take those positions without the belief that it</p> <p>21 was receiving a cushion in the form of the</p> <p>22 excess margin posted in the accounts and</p> <p>23 clearing fund deposits, correct?</p> <p>24 A. Is that the same question you asked me</p> <p>25 before?</p>

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<p>1 A. Leitner</p> <p>2 Q. I'm just reorienting you to a</p> <p>3 particular portion of your opinion on paragraph</p> <p>4 106.</p> <p>5 A. Okay.</p> <p>6 MS. BLOOMER: Is that a question?</p> <p>7 MR. OXFORD: I'm asking him if he sees</p> <p>8 that portion of his opinion.</p> <p>9 A. The first sentence?</p> <p>10 Q. Yes.</p> <p>11 A. Yes, okay.</p> <p>12 Q. Did Barclays believe there was excess</p> <p>13 margin in the accounts in clearing fund deposits</p> <p>14 when it closed this transaction?</p> <p>15 A. Well, the testimony is that there was</p> <p>16 a lot of uncertainty as to exactly what it was</p> <p>17 getting, and given that there had been</p> <p>18 fluctuations in these positions of several</p> <p>19 hundred million dollars per day, I think it was</p> <p>20 extremely difficult to take a snapshot.</p> <p>21 If you're asking, you know, as of the</p> <p>22 morning of the 21st, the Monday morning --</p> <p>23 Q. 22nd?</p> <p>24 A. Or the 22nd, what did OCC tell them</p> <p>25 was the margin requirement and what were the</p>	<p>1 A. Leitner</p> <p>2 speculation over the weekend, there was some,</p> <p>3 clearly some speculation over the weekend that</p> <p>4 some portion of the margin they were getting</p> <p>5 would be excess, excess in terms of the OCC</p> <p>6 opening on Monday and giving them a report based</p> <p>7 on the valuation and calculations that they used</p> <p>8 to determine what the margin would be to a</p> <p>9 normal solvent entity.</p> <p>10 So there was some correspondence over</p> <p>11 the weekend about what that margin would be,</p> <p>12 which in my view sounded like, you know,</p> <p>13 questions about whether there would be enough,</p> <p>14 because, if not, Barclays was going to have to</p> <p>15 come up with more. And there was a lot of</p> <p>16 things changing, not only the market changing,</p> <p>17 but also, you know, whether these LOCs, these --</p> <p>18 if the LOCs were not there and the margin</p> <p>19 requirement increased, Barclays was clearly</p> <p>20 going to have to come up with, you know, more</p> <p>21 capital to fund the margin requirement.</p> <p>22 And I think that was, you know, in a</p> <p>23 complete state of uncertainty from Friday to</p> <p>24 Monday, from all I can gather.</p> <p>25 Q. In your opinion, sir, how much of a</p>
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<p>1 A. Leitner</p> <p>2 cushion in the form of excess margin would a</p> <p>3 rational purchaser need to conclude the deal</p> <p>4 that Barclays concluded?</p> <p>5 MS. BLOOMER: Objection to the form.</p> <p>6 A. I can't answer that, because even if I</p> <p>7 try to put myself in the position of what I</p> <p>8 would have done, assuming that I had the luxury</p> <p>9 of, you know, the ability to negotiate based on</p> <p>10 all the facts, given the volatility of the</p> <p>11 market, you know, I don't know what kind of</p> <p>12 cushion I would have, you know, rationally</p> <p>13 placed on this.</p> <p>14 I mean, the fact is that there was</p> <p>15 just too much market volatility in the equity</p> <p>16 portfolio over time, and by -- so -- and I'm</p> <p>17 certain, you know, the same would apply, you</p> <p>18 know, at the time the APA was negotiated. I</p> <p>19 mean, the -- at that point, you know, everyone</p> <p>20 thought that, you know, these businesses were</p> <p>21 going to move and they understood what the</p> <p>22 businesses were, and between then and Friday,</p> <p>23 you know, you had all these facts changing, as</p> <p>24 my opinion indicates.</p> <p>25 Q. Your opinion, sir, is that no rational</p>	<p>1 A. Leitner</p> <p>2 purchaser would be willing to do this deal</p> <p>3 without the belief that it was receiving a</p> <p>4 cushion in the form of excess margin in accounts</p> <p>5 and clearing fund deposits?</p> <p>6 A. Yes.</p> <p>7 Q. Would it be rational for the purchaser</p> <p>8 of Lehman's ETDs to do this deal with a \$1</p> <p>9 cushion?</p> <p>10 MS. BLOOMER: Objection to the form.</p> <p>11 A. I think a rational purchaser would</p> <p>12 have wanted as much cushion as they could</p> <p>13 possibly negotiate, particularly with respect to</p> <p>14 the clearing fund deposit, because if you had a</p> <p>15 business like Barclays had, which was fairly</p> <p>16 small, and you were acquiring Lehman's business,</p> <p>17 you would know that your clearing fund deposit</p> <p>18 was going to go up exponentially, so that was</p> <p>19 definitely a plus to help you be able to support</p> <p>20 the business. So that's my answer.</p> <p>21 Q. I should have done this in the correct</p> <p>22 order. What do you mean by "excess margin" in</p> <p>23 paragraph 106?</p> <p>24 A. Well, first of all, let me be clear</p> <p>25 that that paragraph does not relate solely to</p>

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<p>1 A. Leitner</p> <p>2 the OCC and to the options book. The futures</p> <p>3 positions also had collateral securing the</p> <p>4 futures position, and there was a little bit</p> <p>5 more information, as I understood it, about what</p> <p>6 the collateral picture of the future positions</p> <p>7 looked like.</p> <p>8 And there, I think the quantification</p> <p>9 of what would be excess in relation to the</p> <p>10 business was potentially more negotiable, but</p> <p>11 there was definitely, in a lot of those</p> <p>12 accounts, collateral over and above what was</p> <p>13 necessary to meet the initial margin</p> <p>14 requirement.</p> <p>15 Q. Let's stick with the OCC at the</p> <p>16 moment. In your opinion, sir, would a rational</p> <p>17 purchaser of Lehman's exchange-traded</p> <p>18 derivatives at the OCC be willing to do so if it</p> <p>19 received the minimum margin required by the OCC</p> <p>20 for those positions?</p> <p>21 MS. BLOOMER: Objection. Calls for</p> <p>22 speculation.</p> <p>23 A. It's difficult to take any of these</p> <p>24 questions completely out of the context of what</p> <p>25 was happening here. You know, you would have</p>	<p>1 A. Leitner</p> <p>2 to -- you know, I'd have to assume a zillion</p> <p>3 other facts. I'm not taking any futures</p> <p>4 position. I'm not taking any other risks. I</p> <p>5 have full knowledge of the book I'm taking, and</p> <p>6 I don't have, you know, 5 percent, you know,</p> <p>7 market fluctuations every day.</p> <p>8 MS. BLOOMER: Let him answer your</p> <p>9 question. I'm sorry. I didn't mean to</p> <p>10 interrupt you. I wanted you to feel</p> <p>11 comfortable answering the question.</p> <p>12 Q. I think you misunderstood my question,</p> <p>13 sir.</p> <p>14 MS. BLOOMER: Can he finish the answer</p> <p>15 he was giving first?</p> <p>16 A. No. No. I was done.</p> <p>17 Q. I didn't mean to interrupt you.</p> <p>18 A. No, that's okay. I thought you were</p> <p>19 asking me about the OCC.</p> <p>20 Q. I am asking you about the OCC, and</p> <p>21 your answer said you would require to know the</p> <p>22 value of any exposure for those positions at the</p> <p>23 OCC. My question is a little different.</p> <p>24 My question would be, with respect to</p> <p>25 the OCC only for the moment, in your opinion,</p>
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<p>1 A. Leitner</p> <p>2 would a rational purchaser of those derivatives</p> <p>3 positions held by Lehman at the OCC take those</p> <p>4 positions if there was no excess margin, but</p> <p>5 only to the penny the required margin per the</p> <p>6 OCC's requirements?</p> <p>7 MS. BLOOMER: I'm going to object, and</p> <p>8 I'm going to ask you to let him finish his</p> <p>9 answer whether you like it or not this time.</p> <p>10 MR. OXFORD: I think the witness has</p> <p>11 stated that I did not interrupt him.</p> <p>12 A. Based on my experience and knowledge</p> <p>13 in the industry, my advice to someone in the</p> <p>14 position of acquiring a book in which all of the</p> <p>15 knowledge of the exposures was known at the OCC</p> <p>16 and the proprietary book only, and I had no</p> <p>17 hedges against those positions, I was completely</p> <p>18 relying solely on the amount of margin that was</p> <p>19 there to help cover my losses, but I would</p> <p>20 otherwise take all the time risk and execution</p> <p>21 risk thereafter, I would want to negotiate for</p> <p>22 an excess over and above the required collateral</p> <p>23 that was commensurate with the volatility, the</p> <p>24 displayed volatility in the market at the time.</p> <p>25 So I would be making some calculation that took</p>	<p>1 A. Leitner</p> <p>2 into account the various factors that would lead</p> <p>3 to carrying me over the duration risk that I had</p> <p>4 before I got these positions under control.</p> <p>5 I don't know what that percentage</p> <p>6 would be without knowing all these factors, but</p> <p>7 I would go down to a minimum only in the most</p> <p>8 calm market conditions, where I could assume</p> <p>9 complete management of those positions on day</p> <p>10 one. That's the only time I would ever be</p> <p>11 comfortable with taking only the snapshot</p> <p>12 required margin, and by "snapshot required</p> <p>13 margin," I mean margin determined at the close</p> <p>14 of business on the closing day so that when we</p> <p>15 open for business the next day, I am ready to</p> <p>16 go.</p> <p>17 MS. BLOOMER: Just when you're ready,</p> <p>18 I think it's getting close to time for</p> <p>19 another break.</p> <p>20 Q. And based on your --</p> <p>21 A. And by the way, that's assuming we're</p> <p>22 only talking about my proprietary stuff. I have</p> <p>23 no other, you know, uncertainties involved in</p> <p>24 the positions.</p> <p>25 Q. And you would require this negotiated</p>

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<p>1 A. Leitner</p> <p>2 cushion, sir, to protect against future market</p> <p>3 risk and the movement of those positions after</p> <p>4 the closing of the transaction, correct?</p> <p>5 A. My answer was all of the factors that</p> <p>6 I would take into account, of which that was</p> <p>7 one.</p> <p>8 Q. Remind me what those other factors</p> <p>9 were, please.</p> <p>10 MS. BLOOMER: Objection to the form of</p> <p>11 the question. Asked and answered. You can</p> <p>12 read the question and answer again if you</p> <p>13 need reminding.</p> <p>14 A. I thought my answer was pretty good.</p> <p>15 Maybe she should read it back again.</p> <p>16 Q. Your statement in paragraph 106, sir,</p> <p>17 about no rational purchaser would be willing to</p> <p>18 do the transaction you've described in your</p> <p>19 report without the belief that there was a</p> <p>20 cushion, you said that that -- that opinion</p> <p>21 applies to not just the closing of the</p> <p>22 transaction, but you don't believe that it would</p> <p>23 have been rational to make that agreement on the</p> <p>24 16th of September when the parties signed the</p> <p>25 APA?</p>	<p>1 A. Leitner</p> <p>2 MS. BLOOMER: Objection to the form of</p> <p>3 the question and to the characterization of</p> <p>4 the report.</p> <p>5 Q. Let me put it another way, sir.</p> <p>6 A. Well, let me -- let me be clear. 106</p> <p>7 begins with a timing, the importance of the</p> <p>8 timing, that is, decide whether to close. So</p> <p>9 the entire predicate of the question and the</p> <p>10 import of that sentence is based on what happens</p> <p>11 Monday, and the fact that I can certainly agree</p> <p>12 with you that on Monday, based on the</p> <p>13 calculations of OCC, and the acquiring knowledge</p> <p>14 about margin of the futures positions, that</p> <p>15 there was a cushion there and that they would</p> <p>16 then at that point have been willing to close.</p> <p>17 That is different than my opinion that</p> <p>18 no rational purchaser would have entered the</p> <p>19 transaction, the APA, other than with the</p> <p>20 knowledge that you were going to get all the</p> <p>21 collateral and other assets supporting the</p> <p>22 business and risk you were taking on.</p> <p>23 So do we have that timing clear?</p> <p>24 Q. Yes, we do.</p> <p>25 A. Okay, great.</p>
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<p>1 A. Leitner</p> <p>2 Q. Would, in your opinion, would a</p> <p>3 rational purchaser have agreed to take Lehman's</p> <p>4 ETD positions without knowing the value and</p> <p>5 exposure of those positions on the 16th and</p> <p>6 without knowing whether or not there was excess</p> <p>7 margin, the cushion that you refer to in</p> <p>8 accounts and clearing fund deposits?</p> <p>9 A. Yes, it would have been rational.</p> <p>10 Q. Why?</p> <p>11 A. One of two things would happen.</p> <p>12 Either the positions would be blown out, like</p> <p>13 the CME did, and you wouldn't take them on and</p> <p>14 Lehman would have a loss, or they wouldn't be</p> <p>15 blown out or liquidated because Lehman was</p> <p>16 managing to keep adequate collateral there and</p> <p>17 keep the clearing houses comfortable.</p> <p>18 So, by the time of the closing, I am</p> <p>19 either getting exposures where I have a</p> <p>20 reasonable expectation that there is enough</p> <p>21 margin or not. I have some risk that between,</p> <p>22 you know, in this case, between Friday and</p> <p>23 Monday, that there will be a move against me if</p> <p>24 there -- if Lehman is margining every day to the</p> <p>25 dollar, I may have some risk that I'll wake up</p>	<p>1 A. Leitner</p> <p>2 and have to put another \$100 million into the</p> <p>3 margin account or that, you know, half of the</p> <p>4 margin is going to be in the form of letters of</p> <p>5 credit and I'm going to have to either replace</p> <p>6 the letters of credit or put up whatever margin</p> <p>7 is reflected by the letters of credit.</p> <p>8 So that's why it would be rational to</p> <p>9 say at the beginning of the deal, you know, I'll</p> <p>10 run that risk.</p> <p>11 MS. BLOOMER: And again, Neil,</p> <p>12 whenever --</p> <p>13 MR. OXFORD: Now is probably a good</p> <p>14 time for a break.</p> <p>15 (Luncheon Recess; Time Noted: 12:14</p> <p>16 P.M.)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>1 A. Leitner 2 AFTERNOON SESSION 3 (Time Noted: 1:03 P.M.) 4 ANTHONY J. LEITNER, resumed and 5 testified further as follows: 6 EXAMINATION BY (Cont'd.) 7 MR. OXFORD: 8 Q. Mr. Leitner, I'd like to turn to the 9 section in your report where you describe the 10 market risk associated with the unvetted 11 positions in the exchange-traded portfolio? 12 A. Paragraph? 13 Q. Paragraph 19, sir. 14 A. Okay. 15 Q. Do you have that there, sir? You 16 state in the middle of the page, "This 17 conclusion is based on the following risks that 18 Barclays faced, each of which was particularly 19 acute under the circumstances surrounding this 20 acquisition," and the first risk you identify is 21 "the market risk associated with the tens of 22 thousands of unvetted positions in LBI's 23 portfolio of ETDs, particularly given the 24 extremely volatile market conditions that 25 existed at the time of this transaction."</p>	<p>1 A. Leitner 2 Do you see that, sir? 3 A. Yes. 4 Q. And that reflects your opinion? 5 A. Yes. 6 Q. When you talk about market risk in 7 your report, sir, are you talking about market 8 risk as it applies to proprietary positions only 9 or to other types of positions as well? 10 A. I'm talking about holistically 11 associated with the risks that they were taking 12 in the derivative book, which would have 13 included all of the exposures for which they 14 were responsible and, you know, that would 15 include, you know, any associated securities 16 positions that they happened to wind up with. I 17 did not intend to limit this only to the 18 proprietary side. 19 Q. So it's your opinion, sir, that 20 Barclays faced a market risk in connection not 21 just with Lehman's proprietary positions, but 22 also Lehman affiliate positions and Lehman 23 customer positions? 24 A. Yes. 25 Q. Is that correct?</p>
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<p>1 A. Leitner 2 A. Yes. 3 Q. Is your opinion limited to equity 4 options or is it your opinion also that Lehman 5 faced a market risk in connection with the 6 futures business? 7 A. It was across the board in all 8 derivatives. 9 Q. Starting with options, sir, you 10 testified earlier that you understood that 11 Barclays took over the PIM customer accounts 12 from Lehman; is that correct? 13 MS. BLOOMER: Objection to form and 14 characterization of his earlier testimony. 15 A. It is my present understanding that 16 they took over -- or, they agreed to take over 17 the private investment management business and 18 the customer accounts associated with them. 19 Q. Is it also your present understanding, 20 Mr. Leitner, that in connection with the 21 assumption of those same accounts, that Barclays 22 received the entirety of the assets that Lehman 23 held for those same PIM customers? 24 A. I understand that was the intention. 25 I haven't done any analysis of the facts to</p>	<p>1 A. Leitner 2 determine whether that all happened, but that 3 was -- that would be generally, in my 4 experience, what happens when you talk about a 5 transfer of accounts; that is, the account 6 positions, which would include debits as well as 7 credits, if you were extending credit to a 8 customer, would essentially pass over. 9 Q. Mr. Leitner, I'll ask you to assume 10 for the purposes of this line of questioning 11 that Barclays has in fact received the entirety 12 of the assets that Barclays held for those same 13 PIM customers. 14 Do you know whether or not Lehman used 15 its own proprietary assets for the purpose of 16 posting margin for PIM customer options at the 17 OCC? 18 A. My understanding is that, for the most 19 part, they did use their own assets. For the 20 most part. 21 Q. Why do you qualify that answer, sir, 22 to "the most part"? 23 A. Because in connection with preparing 24 for this deposition, one of the contacts I had 25 was with a gentleman who was responsible for the</p>

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<p>1 A. Leitner</p> <p>2 actual, you know, margining of the customer</p> <p>3 positions, and he made clear that some of the</p> <p>4 customers took advantage of the ability to use</p> <p>5 what are generally in the industry called escrow</p> <p>6 receipts or margin deposit letters to cover</p> <p>7 their portion of the margin requirements.</p> <p>8 So that would have relieved Lehman of</p> <p>9 having to post, you know, its own assets to</p> <p>10 secure those positions.</p> <p>11 Q. Did those customers include PIM</p> <p>12 customers, sir?</p> <p>13 A. I'm not sure I understood ever</p> <p>14 explicitly who they were for. They are</p> <p>15 generally institutional customers who have a</p> <p>16 limitation on their ability to put their assets</p> <p>17 with a broker-dealer and keep their assets in a</p> <p>18 bank. So I am not certain whether they fell</p> <p>19 into the PIM category, but were institutional</p> <p>20 customers that did -- that were Lehman</p> <p>21 customers.</p> <p>22 To the extent they came to Barclays</p> <p>23 and continued to use those escrow receipts, then</p> <p>24 that was the reason for my qualifying my answer.</p> <p>25 I have no specific knowledge as to whether those</p>	<p>1 A. Leitner</p> <p>2 institutional customers came over, but if they</p> <p>3 did, then they would have continued to use that</p> <p>4 method of -- of margining their position,</p> <p>5 keeping in mind that their margin requirement is</p> <p>6 actually a margin requirement to the broker that</p> <p>7 is carrying their positions and that the market</p> <p>8 has evolved this particular type of instrument</p> <p>9 to satisfy both the customer's requirement to</p> <p>10 the broker as well as the requirement to the</p> <p>11 clearing Corp. Pretty neat.</p> <p>12 Q. Who's the gentleman, Mr. Leitner, who</p> <p>13 provided this information to you about escrow</p> <p>14 receipts?</p> <p>15 A. I don't remember whether it was Dan</p> <p>16 Dzeimian or -- is it Craig Jones? There are two</p> <p>17 operations guys who now work for Barclays that</p> <p>18 were knowledgeable about this subject.</p> <p>19 Q. Do you agree, Mr. Leitner, that the</p> <p>20 PIM customers that Barclays took over from</p> <p>21 Lehman bear the risk of gain or loss on their</p> <p>22 options positions rather than the broker-dealer</p> <p>23 through which they placed those options?</p> <p>24 MS. BLOOMER: Objection to the form of</p> <p>25 the question.</p>
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<p>1 A. Leitner</p> <p>2 A. They bear the gain or loss profit and</p> <p>3 loss risk in the options that they own, and I</p> <p>4 just want to make clear we distinguish that from</p> <p>5 the clearing risk. They don't bear the clearing</p> <p>6 risk. The clearing member bears the clearing</p> <p>7 risk from a P&L point of view, yes.</p> <p>8 Q. To cover the clearing risk that you</p> <p>9 have just described, the broker-dealer such as</p> <p>10 Lehman would obtain from the customers</p> <p>11 collateral or margin in order to cover that</p> <p>12 risk, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And that collateral or margin you</p> <p>15 believe was intended to be transferred to</p> <p>16 Barclays, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And I've asked you to assume that that</p> <p>19 collateral was in fact transferred to Barclays.</p> <p>20 Assuming that to be true, do you agree</p> <p>21 that in the event of the clearing risk being</p> <p>22 realized, Barclays has recourse to that</p> <p>23 collateral the customers originally provided to</p> <p>24 Lehman and was transferred to Barclays?</p> <p>25 A. Yes.</p>	<p>1 A. Leitner</p> <p>2 Q. So in what sense does Barclays face a</p> <p>3 market risk for the options that it cleared for</p> <p>4 PIM customers?</p> <p>5 A. The market risk is always the credit</p> <p>6 risk. So here the two can't be really separated</p> <p>7 because the credit risk is that the customer</p> <p>8 will not in fact meet its margin requirement and</p> <p>9 that the clearing member still has the exposure</p> <p>10 to the exchange.</p> <p>11 So you hope, but you don't know for</p> <p>12 certain that all the customers are creditworthy.</p> <p>13 You are willing to take them on. You assume,</p> <p>14 therefore, the margin done day one and that you</p> <p>15 can handle them and handle their accounts on day</p> <p>16 one. But the margin used by the acquiring,</p> <p>17 because it's typical in the industry to</p> <p>18 essentially use your own assets rather than the</p> <p>19 customer assets to margin the positions at the</p> <p>20 clearing house, that's part of the assets used</p> <p>21 in the business.</p> <p>22 So if you're a broker clearing for</p> <p>23 people who in fact engage in exchange-traded</p> <p>24 derivatives, the custom and practice in the</p> <p>25 industry is to use mostly your own assets to</p>

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<p>1 A. Leitner</p> <p>2 margin their positions.</p> <p>3 Q. Would you agree that Barclays did not</p> <p>4 need, in the case of PIM customers who they took</p> <p>5 on, in order to cover the market risk associated</p> <p>6 with the PIM customers' positions, as you've</p> <p>7 described as associated with the credit risk,</p> <p>8 Barclays didn't need the margin that was posted</p> <p>9 by LBI at the OCC in order to cover that risk</p> <p>10 because that risk was already covered by the</p> <p>11 collateral that the PIM customers provided to</p> <p>12 Barclays -- to Lehman, which was then</p> <p>13 transferred to Barclays?</p> <p>14 MS. BLOOMER: Objection to the form of</p> <p>15 the question.</p> <p>16 A. The market risk would apply to the</p> <p>17 amount of collateral that would -- and would</p> <p>18 affect the amount of collateral required to</p> <p>19 cover the customer short positions at the</p> <p>20 exchange or at the clearing house. So since</p> <p>21 there was market risk in the sense that if the</p> <p>22 margin requirement went up, Barclays would have</p> <p>23 to put more assets to work to be able to cover</p> <p>24 the customer positions, so there was certainly</p> <p>25 market risk to whoever was going to be clearing</p>	<p>1 A. Leitner</p> <p>2 the positions, if you state it in that way, how</p> <p>3 much margin, how much of your own assets are you</p> <p>4 going to have to use to support the business</p> <p>5 that you took on.</p> <p>6 Q. In what sense, sir, is that a market</p> <p>7 risk?</p> <p>8 A. Well, I guess you could also</p> <p>9 characterize it as a liquidity risk, how much</p> <p>10 liquidity do you have to apply to carry the</p> <p>11 business. So the market risk equals what the</p> <p>12 liquidity factor is to be able to support the</p> <p>13 business.</p> <p>14 Q. Because you have another opinion here</p> <p>15 that one of the risks Barclays faced was the</p> <p>16 open-ended risk of funding the margin</p> <p>17 requirement and potentially increase clearing</p> <p>18 fund deposits. Do you see that? And again, I'm</p> <p>19 just --</p> <p>20 A. I just flipped the page. Let me go</p> <p>21 back to that.</p> <p>22 Yes, I see that.</p> <p>23 Q. And my questions are not about the</p> <p>24 funding risk. We will get to that in due</p> <p>25 course. My questions are about the market risk</p>
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<p>1 A. Leitner</p> <p>2 as you describe in point 1 of paragraph 19, the</p> <p>3 market risk associated with the unvetted</p> <p>4 positions.</p> <p>5 So can you tell me, sir, distinct and</p> <p>6 apart from the risk of funding margin</p> <p>7 requirements, what market risk Barclays faced in</p> <p>8 clearing PIM customer option positions?</p> <p>9 MS. BLOOMER: Objection to the form of</p> <p>10 the question. Asked and answered.</p> <p>11 A. I would say that there is a less</p> <p>12 visible market risk associated with the customer</p> <p>13 positions than for the proprietary and affiliate</p> <p>14 positions.</p> <p>15 Q. Okay. I appreciate that answer. It's</p> <p>16 less visible. What is it?</p> <p>17 A. You're assuming that these risks, even</p> <p>18 though I have mentioned them as separate risks,</p> <p>19 are in fact separate. And the point I was</p> <p>20 trying to make before is that they're not really</p> <p>21 separate, that market, funding, liquidity and</p> <p>22 credit risks are all part of a bundle,</p> <p>23 especially when you're talking about customer</p> <p>24 accounts.</p> <p>25 So I wouldn't say that there is no</p>	<p>1 A. Leitner</p> <p>2 market risk associated with taking on the</p> <p>3 futures positions of the customer accounts. I</p> <p>4 would hesitate to say that there's none.</p> <p>5 Q. Other than the funding risk for the</p> <p>6 margin requirements and the credit risk, can you</p> <p>7 identify for me --</p> <p>8 A. Those are the two --</p> <p>9 MS. BLOOMER: Objection.</p> <p>10 A. -- larger risks.</p> <p>11 MS. BLOOMER: Can you let him finish</p> <p>12 the question and give me a moment to state</p> <p>13 an objection?</p> <p>14 THE WITNESS: Yes.</p> <p>15 MS. BLOOMER: Object to the form of</p> <p>16 the question.</p> <p>17 Q. Is it your opinion, Mr. Leitner, that</p> <p>18 in addition to the collateral that Barclays got</p> <p>19 from Lehman for the PIM customers, Barclays</p> <p>20 should also get the collateral that Lehman</p> <p>21 posted at the OCC to secure the performance of</p> <p>22 the options positions placed for those PIM</p> <p>23 customers?</p> <p>24 A. Yes.</p> <p>25 Q. Why is that, sir?</p>

A. Leitner

A. Well, because the collateral posted at OCC secured everything at OCC. So even though there were separate accounts in which OCC would compute a requirement for those accounts so that, as I mentioned in my opinion, the customer account positions were subject to a different methodology for computing the margin requirements in the proprietary accounts.

But Lehman, as would be typical in the industry, even though they would get separate account-by-account, that is, clearing-account-by-account margin requirements, tended to look at what was the total margin requirement that they would have to put up associated with the business.

And so, based on my expertise in the industry, while you could look at these accounts as being separate, that's not the way the firm would look at the assets required to maintain the -- maintain the margin. And indeed, they can move around the allocation of acceptable collateral account by account. So you can have more LOCs that are associated with this account, but you're looking at the gross requirement that

A. Leitner

you have.

Q. What's the basis for your testimony, sir, that Lehman, even though they would get separate account-by-account statements, tended to look at what was the total margin requirement associated with the business?

A. My conversations with the --

MS. BLOOMER: Objection to the form of the question.

A. I use that as the basis of my conversations and interviews with the witnesses, Dzeimian and I believe it's Jones. Is it Jones?

I don't -- I'm trying to remember the -- I'm -- I just confess that my memory for names is not that great. There were two OCC option operations people that I talked to to understand exactly how they managed the business.

Q. I understand. I'm only seeking your recollection. If I would like Trish's recollection, I will ask her questions, probably not under oath.

MS. BLOOMER: I would hesitate to give my recollections under oath.

A. Leitner

Q. What would happen, sir, in the event that all the PIM customers who moved to Barclays close out their options positions and the cost of closing out those options positions was not greater than the collateral they provided to Lehman which was transferred to Barclays to cover the cost of closing out the positions?

MS. BLOOMER: Objection to the form of the question.

Q. Would the collateral that Lehman had posted at the OCC then become excess collateral that could be returned to the broker-dealer?

A. In the case of Lehman or any other clearing firm that had, like Lehman, a bunch of different accounts at which it was -- in which it had margin requirements, the first thing you would look at is whether you still needed that collateral to margin your gross position.

If the answer was that -- the answer to that question was no, you don't need that anymore, then the clearing firm would be able to withdraw it.

Q. And in this case, Barclays would be that clearing firm, correct?

A. Leitner

A. Correct.

Q. Can you tell me, sir, if -- withdrawn. Can you tell me, sir, why a rational purchaser -- withdrawn. I'll try a different attempt.

Can you tell me, sir, why a rational seller, when transferring its customers and the collateral that the customers had provided to it to another broker-dealer, would also give away the collateral posted at the OCC in connection with those same customers and the options that it had placed at the OCC for those customers?

MS. BLOOMER: Objection to the form of the question.

A. I can only explain that it would have been -- it was indeed rational for that to happen in connection with this transaction under these circumstances.

To the extent your question is posed in the abstract in relation to another set of facts and circumstances, I would have to know what they were to be able to answer your question. But in the context of this transaction, I believe it was in fact rational

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<p>1 A. Leitner</p> <p>2 for the parties to agree that that was intended</p> <p>3 in the context of transferring the assets</p> <p>4 necessary to support the broker's business,</p> <p>5 because essentially this is the part of the</p> <p>6 business we're talking about. It's the</p> <p>7 brokerage business to which the exchange-traded</p> <p>8 derivatives are associated. So the two are</p> <p>9 connected.</p> <p>10 Q. Why do you consider it rational, sir,</p> <p>11 in the context of this transaction?</p> <p>12 A. Because it was in the interests of</p> <p>13 Lehman and the trustees to see these customer</p> <p>14 positions effectively transferred out, and it</p> <p>15 was rational for Barclays to be willing to take</p> <p>16 them along with the assets that supported that</p> <p>17 business.</p> <p>18 Q. Would it have been rational, sir, for</p> <p>19 Barclays to take these customer positions and</p> <p>20 the margin and collateral given by the customers</p> <p>21 to Lehman without also taking the additional</p> <p>22 proprietary LBI assets that were posted at the</p> <p>23 OCC to secure the customer positions?</p> <p>24 A. You lost me.</p> <p>25 (Record read.)</p>	<p>1 A. Leitner</p> <p>2 MS. BLOOMER: Objection to the form of</p> <p>3 the question. Are you limiting this to the</p> <p>4 customers, the PIM customers, Neil, or to</p> <p>5 the options customers?</p> <p>6 A. Or any FCM business?</p> <p>7 Q. The PIM options customers.</p> <p>8 A. Yes, it would have been rational for</p> <p>9 them to have been willing to take the PIM</p> <p>10 customer accounts without also taking the</p> <p>11 proprietary accounts, if that was your question.</p> <p>12 Q. No, it wasn't.</p> <p>13 Can you read back my question, please,</p> <p>14 Kathy?</p> <p>15 (Record read.)</p> <p>16 MS. BLOOMER: Are you --</p> <p>17 A. Excuse me. I'm going to take a minute</p> <p>18 to diagram what I think is happening for myself.</p> <p>19 So can we go off the record for a second? I</p> <p>20 just want to make sure that I understand.</p> <p>21 MR. OXFORD: Sure.</p> <p>22 MS. BLOOMER: Before you -- I'm not</p> <p>23 sure that this is an appropriate. The</p> <p>24 deposition is oral testimony.</p> <p>25 THE WITNESS: Oh, I know.</p>
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<p>1 A. Leitner</p> <p>2 MS. BLOOMER: So you're going to have</p> <p>3 to try the give the answers in an oral way.</p> <p>4 This is not, I don't think, an appropriate</p> <p>5 way to answer the question, unfortunately.</p> <p>6 A. Okay. You know, my problem is with</p> <p>7 the question is that I'm trying to understand,</p> <p>8 and I think it was your use of the word</p> <p>9 "without" in the context in which you used it.</p> <p>10 Maybe you can rephrase the question in a way I</p> <p>11 can understand it.</p> <p>12 So the rational is that the customer</p> <p>13 accounts are coming over?</p> <p>14 Q. Yes.</p> <p>15 A. Yes. And would it be rational to take</p> <p>16 the customer accounts without also taking the</p> <p>17 proprietary accounts?</p> <p>18 Q. No. My question is this, Mr. Leitner:</p> <p>19 Would it have been rational for Barclays to take</p> <p>20 the PIM customer accounts plus the collateral</p> <p>21 that the PIM customers had provided to Lehman,</p> <p>22 but not the margin that Lehman had posted at the</p> <p>23 OCC to secure the customer options placed at the</p> <p>24 OCC?</p> <p>25 A. So let me get this straight. The --</p>	<p>1 A. Leitner</p> <p>2 everything is coming over to Lehman -- to</p> <p>3 Barclays, proprietary positions, everything else</p> <p>4 is coming over, but the margin associated with</p> <p>5 the customer positions is not coming over?</p> <p>6 Q. Would that be rational, sir?</p> <p>7 A. In the -- I thought I already answered</p> <p>8 that, but let me say again, in the context of</p> <p>9 this transaction, I don't think it would have</p> <p>10 been rational because Barclays did not know all</p> <p>11 of the risks it was going to take in taking the</p> <p>12 full brunt of the -- I'm sorry, the full set of</p> <p>13 obligations as a clearing firm for all of these</p> <p>14 positions, including the customer positions.</p> <p>15 Thank you for patiently going through</p> <p>16 your scenario.</p> <p>17 Q. You're aware, sir, that Barclays, for</p> <p>18 non-PIM customer options positions, has charged</p> <p>19 back the Lehman estate for the cost of closing</p> <p>20 out those positions?</p> <p>21 MS. BLOOMER: Objection to the form of</p> <p>22 the question.</p> <p>23 A. Who's charged back closing out which</p> <p>24 positions?</p> <p>25 Q. You understand that Lehman cleared</p>

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<p>1 A. Leitner</p> <p>2 positions at the OCC for customers other than</p> <p>3 PIM customers, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And you understand that when Barclays,</p> <p>6 after the closing of the transaction on the</p> <p>7 22nd, cleared those non-PIM customer positions,</p> <p>8 Barclays charged back the Lehman estate for the</p> <p>9 costs incurred in closing out those positions?</p> <p>10 MS. BLOOMER: Object to the form of</p> <p>11 the question.</p> <p>12 A. I may describe what I think happened</p> <p>13 differently than the way you did, because my</p> <p>14 understanding is that the customers that</p> <p>15 remained with Lehman -- and those are the</p> <p>16 customer we're talking about, right?</p> <p>17 Q. The customer accounts.</p> <p>18 A. The customer accounts that stayed at</p> <p>19 Lehman?</p> <p>20 Q. Yes.</p> <p>21 A. -- who had option positions, either</p> <p>22 long or short, the clearing responsibility was</p> <p>23 accepted by Barclays for those accounts and an</p> <p>24 operational mechanism was set up so that</p> <p>25 Barclays could work with the trustee and the</p>	<p>1 A. Leitner</p> <p>2 customers to accommodate those customers'</p> <p>3 activities.</p> <p>4 My understanding was the customers</p> <p>5 were still in charge of what happened in their</p> <p>6 accounts and were ultimately responsible for</p> <p>7 making or taking delivery, paying for securities</p> <p>8 and so forth, and had to work through the</p> <p>9 trustee. That is my general understanding of</p> <p>10 what happened.</p> <p>11 So Barclays was fully at risk if an</p> <p>12 option was exercised for one of those customers</p> <p>13 and was not settled by the customer.</p> <p>14 Q. It sounds to me like you're testifying</p> <p>15 about a credit risk or a risk of default by the</p> <p>16 customer, sir.</p> <p>17 MS. BLOOMER: Objection to the form of</p> <p>18 the question.</p> <p>19 A. I'm just expressing my understanding</p> <p>20 of what happened.</p> <p>21 Sorry, go ahead.</p> <p>22 Q. Is there a market risk that Barclays</p> <p>23 faced in clearing for the LBI customers whose</p> <p>24 accounts it did not assume?</p> <p>25 MS. BLOOMER: Objection to the form of</p>
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<p>1 A. Leitner</p> <p>2 the question. Asked and answered.</p> <p>3 A. Only associated with the potentiality</p> <p>4 for increasing the credit risk.</p> <p>5 Q. Are you aware, Mr. Leitner, one way or</p> <p>6 the other, whether or not, where there was a</p> <p>7 customer default for a customer whose account</p> <p>8 Barclays did not assume, Barclays charged back</p> <p>9 the LBI estate for the cost associated with that</p> <p>10 close-out?</p> <p>11 A. By the way, I -- I -- you're using the</p> <p>12 word "charge back." I have not object to that</p> <p>13 word, but I would not use that word in</p> <p>14 connection with what Barclays was doing.</p> <p>15 Barclays was settling transactions, and the</p> <p>16 requirement was to make or take delivery in</p> <p>17 connection with option exercises and the like</p> <p>18 and, therefore, to look for either the party to</p> <p>19 make delivery or to compensate Barclays for the</p> <p>20 cost of doing so.</p> <p>21 So I'm -- I think I understand what</p> <p>22 you're meaning, but I just want to make sure</p> <p>23 that there is a settlement operation that in a</p> <p>24 sense had its own performance risks.</p> <p>25 Q. I understand that, sir.</p>	<p>1 A. Leitner</p> <p>2 Is it your understanding that if the</p> <p>3 customers did not fulfill their obligations to</p> <p>4 Barclays, and again, these are customers whose</p> <p>5 accounts Barclays did not take, then Barclays</p> <p>6 has looked to the Lehman estate to make good on</p> <p>7 the losses incurred by Barclays in connection</p> <p>8 with the close-out of the customer whose account</p> <p>9 they did not take?</p> <p>10 A. Yes, that's my understanding.</p> <p>11 MS. BLOOMER: Objection. I object to</p> <p>12 the form of the question.</p> <p>13 Q. Turning to the proprietary positions</p> <p>14 taken at the OCC, sir, by Barclays, you have</p> <p>15 described in your earlier testimony some of the</p> <p>16 risks that are associated with taking those</p> <p>17 positions, right?</p> <p>18 A. Yes.</p> <p>19 Q. Would you agree, sir, that there's</p> <p>20 also a potential upside to taking those</p> <p>21 positions?</p> <p>22 A. Yes.</p> <p>23 Q. Is the reason that Barclays took the</p> <p>24 proprietary derivatives at the OCC because of</p> <p>25 that potential upside?</p>

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1 A. Leitner
2 A. I have no factual basis to know how
3 Barclays valued this particular aspect of the
4 transaction. I assume, again, as an expert in
5 the industry, that Barclays discerned some value
6 for being in the, holistically, in this
7 transaction and doing it at all, but I don't
8 know where they saw the value or in fact how
9 they valued it.

10 Q. Were you aware, sir, that in addition
11 to Barclays' knowledge about the existence of
12 hundreds of millions of dollars of excess margin
13 at the OCC prior to the closing, Barclays
14 understood that it could expect payments of
15 almost 370 million from the firm accounts at the
16 OCC on the morning of September 22?

17 MS. BLOOMER: I object to the form of
18 the question and the fact that it assumes
19 facts not in evidence.

20 A. I don't have any recollection of
21 exactly, you know, which accounts were -- at the
22 OCC were which. I think that there was in fact
23 a -- that on the 22nd, I believe there was a
24 so-called excess over the requirement there.

25 Q. I'm handing you, Mr. Leitner, what has

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1 A. Leitner
2 clearance and settlement issues arising out of
3 the expiration of options, and I am not sure,
4 although I believe it to be the case, that they
5 had -- they would have an impact on what the net
6 was, but I don't know what that was.

7 MR. OXFORD: Okay. Can you read back
8 my last question?
9 (Record read.)

10 MS. BLOOMER: If you're repeating the
11 question, I object in that it's been asked
12 and answered.

13 Q. Can you answer my question, sir?

14 A. I thought I did.

15 Q. I think you tried to. I don't think
16 you did, with respect, sir. I'd like you to try
17 again.

18 MS. BLOOMER: Objection. Asked and
19 answered. If you don't like his answer,
20 that doesn't mean he has to try and give you
21 a different answer.

22 MR. OXFORD: I'm entitled to an
23 answer. So, please, can you try again to
24 answer the question?

25 MS. BLOOMER: Objection. Asked and

1 A. Leitner
2 been marked previously at another deposition as
3 Exhibit 627. If you could take a moment, sir,
4 and let me know whether you've seen this
5 document before, please.

6 A. Okay. I've seen this.

7 Q. In what context have you seen it, sir?

8 A. In preparing for this deposition and
9 in reviewing materials, but I don't know when I
10 first saw it.

11 Q. Do you agree with me, sir, that this
12 document reflects the knowledge of Barclays'
13 counsel the day before the closing of this
14 transaction that Barclays could expect to
15 receive projected settlements of almost \$370
16 million from the former LBI firm accounts at the
17 Options Clearing Corporation?

18 MS. BLOOMER: Objection to the form of
19 the question and mischaracterizes the
20 document.

21 A. This seems to be a, as far as I can
22 determine from this document, it appears to be a
23 notification which is conditional on amounts
24 deemed at that time to be owed to Barclays, but
25 it is also my understanding that there were

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1 A. Leitner
2 answered.

3 MR. OXFORD: That's fine. That's on
4 the record.

5 A. My answer was that there is a number
6 here that is due of \$358 million that is a
7 collect that is subject to all margins staying
8 where it is, and my recollection is that because
9 there was also a settlement of options over the
10 weekend, I have a recollection that that will
11 impact a potential pay. So I don't know whether
12 the net is -- that this reflects the net. So --

13 Q. Sir, with respect, I'm not asking you
14 about the net.

15 A. But it may be that my recollection is
16 incorrect and that this is the number that came
17 over. I don't know that it did. All I know is
18 that it reflects -- it says what it says, which
19 is that it -- that there is a collect, i.e., an
20 amount due the firm based on the calculation at
21 that time.

22 Q. And independent of your recollection,
23 sir, which you have testified may or may not be
24 correct, is it your understanding that this
25 document reflects a communication from the OCC

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<p>1 A. Leitner</p> <p>2 to Barclays' counsel the day before the closing</p> <p>3 that Barclays could expect to receive a</p> <p>4 projected settlement from the LBI accounts at</p> <p>5 OCC, the firm accounts, of approximately \$370</p> <p>6 million? And my question is limited to this</p> <p>7 document, sir.</p> <p>8 A. Yes.</p> <p>9 MS. BLOOMER: I object to the</p> <p>10 question. You've asked and answered the</p> <p>11 question.</p> <p>12 Q. Could you turn to paragraph 62 of your</p> <p>13 report, please, sir?</p> <p>14 A. Page?</p> <p>15 Q. 26.</p> <p>16 A. Oh.</p> <p>17 Q. Paragraph 62.</p> <p>18 A. Okay.</p> <p>19 Q. Do you have that there, sir?</p> <p>20 A. I do.</p> <p>21 Q. The first sentence of your opinion in</p> <p>22 paragraph 62 says, "At the time of signing of</p> <p>23 APA, Barclays had received only limited, and in</p> <p>24 some respects inaccurate, information from LBI</p> <p>25 concerning the long and short positions Barclays</p>	<p>1 A. Leitner</p> <p>2 had originally contracted to acquire (and even</p> <p>3 less information, if any, about the</p> <p>4 exchange-traded derivatives components of those</p> <p>5 positions)."</p> <p>6 Do you have any idea, sir, one way or</p> <p>7 the other, whether or not Barclays had any</p> <p>8 information about the exchange-traded derivative</p> <p>9 portfolio of LBI when it signed the APA?</p> <p>10 MS. BLOOMER: Objection to the form of</p> <p>11 the question.</p> <p>12 THE WITNESS: Sorry, what did you say?</p> <p>13 MS. BLOOMER: I just objected to the</p> <p>14 form of the question. I'm sorry. I forgot</p> <p>15 about the hearing issue. I apologize.</p> <p>16 A. Would you read back the question?</p> <p>17 (Record read.)</p> <p>18 A. No.</p> <p>19 Q. Do you know whether or not, sir,</p> <p>20 Barclays asked anybody at Lehman, prior to</p> <p>21 Barclays signing the APA, for information about</p> <p>22 the derivatives portfolio that it would acquire</p> <p>23 under the APA?</p> <p>24 A. Excuse me. The timing of the document</p> <p>25 was the 16th?</p>
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<p>1 A. Leitner</p> <p>2 Q. Correct.</p> <p>3 A. Which was Wednesday?</p> <p>4 Q. Tuesday, sir.</p> <p>5 A. Tuesday.</p> <p>6 Q. Tuesday, the 16th of September.</p> <p>7 MS. BLOOMER: I'm going to object. I</p> <p>8 think the agreement may have been signed on</p> <p>9 the 17th, Neil. I'm not 100 percent sure</p> <p>10 about that, but I think there's some</p> <p>11 confusion about that.</p> <p>12 MR. DAKIS: It's agreed to on the 16th</p> <p>13 and then presented to the court at the</p> <p>14 Procedures Motion Hearing on the 17th.</p> <p>15 MS. BLOOMER: Okay.</p> <p>16 MR. DAKIS: It was agreed to and I</p> <p>17 think dated as of the 16th.</p> <p>18 MS. BLOOMER: It's dated as of the</p> <p>19 16th?</p> <p>20 MR. DAKIS: I believe so. I believe</p> <p>21 it's agreed to on the 16th.</p> <p>22 MS. BLOOMER: Agreed to on the 16h.</p> <p>23 Okay, I'll take your representation. You</p> <p>24 can take the representation as true. I</p> <p>25 wasn't sure. Thank you.</p>	<p>1 A. Leitner</p> <p>2 A. Not that it matters one way or the</p> <p>3 other, but my recollection of the documents I</p> <p>4 reviewed, the testimony I reviewed was that, as</p> <p>5 stated here, they were trying to find out what</p> <p>6 those positions were, but I don't know how much</p> <p>7 information they had actually received prior to</p> <p>8 the signing of the agreement.</p> <p>9 Q. And you actually don't know whether or</p> <p>10 not Barclays even asked for that information</p> <p>11 prior to signing the APA, do you, sir?</p> <p>12 A. I do not know when or who initially</p> <p>13 communicated requests for that information, but</p> <p>14 I am aware that they were -- that there were --</p> <p>15 particularly Mr. King was looking for</p> <p>16 information because he was the risk manager of</p> <p>17 the transaction.</p> <p>18 Q. You spoke to Mr. King in preparation</p> <p>19 for your deposition?</p> <p>20 A. No, I did not. I only read his</p> <p>21 testimony.</p> <p>22 Q. Did you speak to Mr. King in</p> <p>23 connection with your report?</p> <p>24 A. No, I only read his deposition.</p> <p>25 Q. If you could turn to Schedule 2,</p>

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<p>1 A. Leitner</p> <p>2 sir -- sorry, Schedule 1 to your report, in</p> <p>3 particular to page 4 of Schedule 1. Do you have</p> <p>4 that page, sir?</p> <p>5 A. Yes.</p> <p>6 Q. Do you see there's a list -- there's a</p> <p>7 heading "Witness Interviews," do you see that,</p> <p>8 sir?</p> <p>9 A. Yes.</p> <p>10 Q. And then there's a list of people</p> <p>11 underneath that?</p> <p>12 A. Yes.</p> <p>13 Q. Did you compile that list, sir?</p> <p>14 A. I assisted in its compilation. I</p> <p>15 reviewed it.</p> <p>16 Q. Okay. What's that list intended to</p> <p>17 represent, sir?</p> <p>18 A. Any contacts, which would include</p> <p>19 meetings that I attended where people may have</p> <p>20 been on the phone, conference calls. I don't</p> <p>21 recall being in a meeting with Mr. King, but he</p> <p>22 may have been on a call with any one of those</p> <p>23 parties when we were discussing aspects of the</p> <p>24 transaction.</p> <p>25 Q. But you did in some sense meet or</p>	<p>1 A. Leitner</p> <p>2 interview with him prior to and pursuant to your</p> <p>3 efforts to compile this January 8 report, sir?</p> <p>4 MS. BLOOMER: Object. If you can</p> <p>5 remember, you can answer the question.</p> <p>6 A. I'm sorry, your question was?</p> <p>7 MS. BLOOMER: Did you meet with or</p> <p>8 speak to Stephen King before the report.</p> <p>9 A. I don't recall him being in the same</p> <p>10 room with me.</p> <p>11 Q. Did you speak with Mr. King on the</p> <p>12 telephone, sir, in connection with preparing</p> <p>13 your report?</p> <p>14 A. I believe he was on at least one</p> <p>15 meeting where there were other people present</p> <p>16 and I believe the subject matter had to do with</p> <p>17 post-transaction issues.</p> <p>18 Q. Did you ask Mr. King if he asked</p> <p>19 Lehman for information about the exchange-traded</p> <p>20 derivative portfolio that Barclays intended to</p> <p>21 acquire?</p> <p>22 A. No.</p> <p>23 Q. You presumably then didn't ask him</p> <p>24 when he asked that question of Lehman?</p> <p>25 A. Correct.</p>
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<p>1 A. Leitner</p> <p>2 Q. The next sentence at paragraph 62 of</p> <p>3 your opinion, sir, reads, "Indeed, Barclays'</p> <p>4 only way to gauge the nature of the ETD</p> <p>5 positions prior to the closing was to observe</p> <p>6 directional movements in the OCC's margin</p> <p>7 requirements." Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Is that your opinion, sir?</p> <p>10 A. It's not an opinion. It is what I</p> <p>11 understood to be a fact based on Mr. King's</p> <p>12 deposition.</p> <p>13 Q. But you know, sir, that Barclays did</p> <p>14 in fact have lists of Lehman's exchange-traded</p> <p>15 derivatives positions prior to the closing,</p> <p>16 correct?</p> <p>17 MS. BLOOMER: Objection to the form of</p> <p>18 the question. Assumes facts not in</p> <p>19 evidence.</p> <p>20 MR. OXFORD: It assumes facts in Mr.</p> <p>21 Leitner's report.</p> <p>22 MS. BLOOMER: Do you want to specify</p> <p>23 which positions they had lists of and which</p> <p>24 they didn't, Neil? Because if not, it</p> <p>25 assumes facts not in evidence.</p>	<p>1 A. Leitner</p> <p>2 MR. OXFORD: I'll get there.</p> <p>3 Q. Do you have my question in mind, Mr.</p> <p>4 Leitner?</p> <p>5 (Record read.)</p> <p>6 A. I believe they had -- step back. At</p> <p>7 some point prior to closing, I believe they had</p> <p>8 a list of the OCC option positions. I'm not</p> <p>9 certain that they had a list of all of the</p> <p>10 futures positions traded on foreign exchanges.</p> <p>11 I just don't remember -- know that they did.</p> <p>12 Q. So if your testimony that you have</p> <p>13 just given is accurate, that Barclays had a list</p> <p>14 of OCC options positions prior to closing, then</p> <p>15 it can't be true that Barclays' only way to</p> <p>16 gauge the nature of those positions prior the</p> <p>17 closing was to observe directional movements in</p> <p>18 the OCC's margin requirements, can it?</p> <p>19 MS. BLOOMER: Objection to the form of</p> <p>20 the question.</p> <p>21 A. If, as I recollect, they only were</p> <p>22 able to receive and digest the positions over</p> <p>23 the weekend, it would have been too late to do</p> <p>24 anything about it. So -- and indeed, even with</p> <p>25 those positions, the -- on the morning of the</p>

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<p>1 A. Leitner</p> <p>2 closing, that would -- it would also be true</p> <p>3 that they would only be able to observe the</p> <p>4 directional movement, so on a gross basis.</p> <p>5 Q. Have you finished your answer, sir?</p> <p>6 A. Yes.</p> <p>7 Q. Why do you say that if Barclays did</p> <p>8 not receive information on Lehman's</p> <p>9 exchange-traded derivatives until the Friday</p> <p>10 before the closing of the transaction it was too</p> <p>11 late to do anything about it?</p> <p>12 A. I think, in order to understand that,</p> <p>13 it's important to read the balance of paragraph</p> <p>14 62 in which I say, "This lack of information was</p> <p>15 partly the result of the setup of LBI's computer</p> <p>16 system, which lumped together both</p> <p>17 exchange-traded derivatives and over-the-counter</p> <p>18 derivatives."</p> <p>19 That was -- that statement was based</p> <p>20 on Mr. King's testimony and, therefore, my</p> <p>21 belief that based on that testimony, that the</p> <p>22 prior statement was an accurate statement, that</p> <p>23 is, that the only way to gauge the nature of the</p> <p>24 positions prior to closing was to observe the</p> <p>25 directional movement.</p>	<p>1 A. Leitner</p> <p>2 So the fact that they got a printout</p> <p>3 at some point that had a list of the positions</p> <p>4 did not necessarily indicate that they would be</p> <p>5 in a position to take risks mitigation action</p> <p>6 other than on a sort of gross basis.</p> <p>7 MS. BLOOMER: Would this be a good</p> <p>8 time for a break, Neil?</p> <p>9 MR. OXFORD: Can I have -- I want to</p> <p>10 do a couple of documents and then we can</p> <p>11 take a break.</p> <p>12 Q. Mr. Leitner, I'm handing you, sir, a</p> <p>13 document that's been previously marked in these</p> <p>14 depositions as Exhibit 554.</p> <p>15 A. I have the document.</p> <p>16 Q. Okay. Could you turn to paragraph 91</p> <p>17 of your report, sir, and tell me whether or not</p> <p>18 this is the first e-mail that you reference in</p> <p>19 paragraph 91?</p> <p>20 MS. BLOOMER: I'm going to object to</p> <p>21 the question and just ask, are you certain</p> <p>22 that this is a full reproduction of the</p> <p>23 exhibit to the e-mail, Neil?</p> <p>24 MS. HASSAN: Exhibit 564 is an excerpt</p> <p>25 of, I think.</p>
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<p>1 A. Leitner</p> <p>2 MS. BLOOMER: Of a how many page</p> <p>3 document?</p> <p>4 MS. HASSAN: It's a long one.</p> <p>5 MS. BLOOMER: Do you know how long?</p> <p>6 MS. HASSAN: I think it's a few</p> <p>7 hundred pages.</p> <p>8 MR. OXFORD: Is this an accurate -- is</p> <p>9 Exhibit 55 -- is this, is what I have</p> <p>10 marked --</p> <p>11 MS. HASSAN: Right.</p> <p>12 MR. OXFORD: -- everything that's in</p> <p>13 Exhibit 554?</p> <p>14 MS. HASSAN: Right, and it corresponds</p> <p>15 to the Bates number in paragraph 91.</p> <p>16 MS. BLOOMER: I don't care what the</p> <p>17 exhibit is. I care about the fact that if</p> <p>18 the e-mail is saying they're sending</p> <p>19 something that's six pages long or that's</p> <p>20 506 pages long. What was the actual</p> <p>21 attachment to the e-mail that Barclays</p> <p>22 received as reflected on this cover e-mail?</p> <p>23 MR. OXFORD: It sounds like it may be</p> <p>24 longer, so we can get that if you would like</p> <p>25 that, Trish.</p>	<p>1 A. Leitner</p> <p>2 MS. BLOOMER: I think it's important</p> <p>3 context to help him answer the questions</p> <p>4 you're asking him.</p> <p>5 A. Is there a question?</p> <p>6 Q. Yes. Can you tell me whether Exhibit</p> <p>7 554 is the first e-mail and attachment that you</p> <p>8 reference in paragraph 91, subject to Trish's</p> <p>9 question as to whether or not there may be</p> <p>10 additional pages to the attachment?</p> <p>11 A. It certainly appears to be. It's --</p> <p>12 the time sequence on it of 4:45 P.M. is close to</p> <p>13 what's on the e-mail, which says 4:45:22 P.M.</p> <p>14 MS. BLOOMER: Were you going to get</p> <p>15 the whole document before you ask any</p> <p>16 questions about it? I mean, you can't give</p> <p>17 him this and ask him to answer questions on</p> <p>18 it if it's not the right document.</p> <p>19 MR. OXFORD: I can ask him whatever</p> <p>20 questions I like, Trish. You can have</p> <p>21 whatever objections you like. We'll get the</p> <p>22 document.</p> <p>23 MS. BLOOMER: I'm going to object to</p> <p>24 any question you ask about this document</p> <p>25 before you give him the full attachment to</p>

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<p>1 A. Leitner</p> <p>2 the e-mail.</p> <p>3 MR. OXFORD: That's fine. I can't</p> <p>4 pull a rabbit out of a hat quite that</p> <p>5 quickly.</p> <p>6 MS. BLOOMER: I understand. Maybe you</p> <p>7 can come back to it or at least represent to</p> <p>8 him how many pages this document is. Maybe</p> <p>9 you can determine that out of a hat.</p> <p>10 MR. OXFORD: I cannot.</p> <p>11 Q. Do you know, sir, looking at 554 which</p> <p>12 computer system this report is drawn from?</p> <p>13 MS. BLOOMER: Objection to the</p> <p>14 question to the extent the witness said he</p> <p>15 doesn't have a full and complete picture of</p> <p>16 the exhibit.</p> <p>17 MR. OXFORD: Your objection is noted.</p> <p>18 Q. Can you tell, sir?</p> <p>19 A. No, I can't tell.</p> <p>20 Q. Did you ask anybody?</p> <p>21 A. No.</p> <p>22 MS. BLOOMER: Objection to the</p> <p>23 question.</p> <p>24 Q. You didn't ask Mr. King?</p> <p>25 A. Excuse me?</p>	<p>1 A. Leitner</p> <p>2 Q. You didn't ask Mr. King what Lehman</p> <p>3 system this document came from?</p> <p>4 MS. BLOOMER: Objection to the</p> <p>5 question.</p> <p>6 A. No.</p> <p>7 Q. You said to prepare your report with</p> <p>8 two of the former Lehman operations people with</p> <p>9 responsibility for options; is that correct,</p> <p>10 sir?</p> <p>11 A. Yes.</p> <p>12 Q. And those names are Dan Dzeimian and</p> <p>13 Craig Jones?</p> <p>14 A. Yes.</p> <p>15 Q. Did you ask either Mr. Dzeimian or Mr.</p> <p>16 Jones about what information was available in</p> <p>17 Lehman's computer systems about Lehman's ETD</p> <p>18 portfolio in the week of September 15?</p> <p>19 A. No.</p> <p>20 Q. Did you ask anybody in preparation for</p> <p>21 your report, sir, about what information was</p> <p>22 available in Lehman's computer systems about</p> <p>23 Lehman's exchange-traded derivatives portfolio</p> <p>24 in the week of September 15?</p> <p>25 A. No.</p>
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<p>1 A. Leitner</p> <p>2 Q. Do you have any information, sir,</p> <p>3 about what information was available in Lehman's</p> <p>4 computer systems about Lehman's ETD portfolio on</p> <p>5 the week of 15th of September?</p> <p>6 MS. BLOOMER: Objection to the form of</p> <p>7 the question.</p> <p>8 A. No, no direct information. Only</p> <p>9 indirect information based on documents that I</p> <p>10 have received, such as the document you're</p> <p>11 showing me, which was produced as a document</p> <p>12 received by Barclays. So I was focusing</p> <p>13 obviously in my opinion on what Barclays had and</p> <p>14 what they knew and when they knew it, and as you</p> <p>15 point out, if this is the position run for --</p> <p>16 even if it's only the list of derivatives</p> <p>17 position, it's a document they got at 4:45 on</p> <p>18 Friday.</p> <p>19 Q. Do you have any reason to believe,</p> <p>20 sir, that if Barclays had asked for a position</p> <p>21 run from Lehman's computer systems at any time</p> <p>22 during the week of September 15th, 2008, that</p> <p>23 Barclays would not have received that position</p> <p>24 run on the exchange-traded derivatives portfolio</p> <p>25 that they intended to acquire from Barclays?</p>	<p>1 A. Leitner</p> <p>2 MS. BLOOMER: I object to the form of</p> <p>3 the question. It assumes facts not in</p> <p>4 evidence.</p> <p>5 A. I would like an opportunity to refer</p> <p>6 to my report and refresh my recollection,</p> <p>7 because I want to see whether other paragraphs</p> <p>8 cover that so I can answer you.</p> <p>9 Q. Okay. Please take a moment.</p> <p>10 (Discussion off the record.)</p> <p>11 A. Okay. I've reviewed the report and it</p> <p>12 hasn't really helped me refresh my recollection,</p> <p>13 but I do believe that there is -- there are</p> <p>14 e-mail exchanges between Barclays executives</p> <p>15 relating to the lack of information prior to the</p> <p>16 Friday in an attempt to receive the information,</p> <p>17 including OTC derivatives, but I would have to</p> <p>18 look elsewhere in the record to find out if my</p> <p>19 recollection is accurate.</p> <p>20 But I believe that on the Thursday and</p> <p>21 the Friday morning, there were attempts to get</p> <p>22 this information, which is why they got it on</p> <p>23 Friday because clearly somebody had asked for it</p> <p>24 before then.</p> <p>25 MS. BLOOMER: And just to -- you were</p>

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<p>1 A. Leitner</p> <p>2 reviewing your report while Neil and I were</p> <p>3 having a discussion, but this document, the</p> <p>4 attachment to this e-mail, was 760 pages</p> <p>5 long. They were able to determine it.</p> <p>6 THE WITNESS: Yes, I know. I have</p> <p>7 seen it, I have seen the entire document,</p> <p>8 which helps me to appreciate even more so</p> <p>9 why there was such a post-closing</p> <p>10 operational issue to try to get this data</p> <p>11 migrated onto Barclays' systems. Because</p> <p>12 there were just thousands of positions.</p> <p>13 MR. OXFORD: And Trish, just so the</p> <p>14 record is clear, when you were talking about</p> <p>15 this document, the record should reflect you</p> <p>16 were pointing to Exhibit 554.</p> <p>17 MS. BLOOMER: Thank you.</p> <p>18 MR. OXFORD: Can you read back,</p> <p>19 please, Kathy, my last question?</p> <p>20 (Record read.)</p> <p>21 MS. BLOOMER: And again, I object.</p> <p>22 Assumes facts not in evidence.</p> <p>23 A. I have no information on the topic, so</p> <p>24 I don't know.</p> <p>25 MR. OXFORD: Now might be a good time</p>	<p>1 A. Leitner</p> <p>2 to take a five-minute break.</p> <p>3 (Recess; Time Noted: 2:13 P.M.)</p> <p>4 (Time Noted: 2:29 P.M.)</p> <p>5 BY MR. OXFORD:</p> <p>6 Q. Turning back to paragraph 62 of your</p> <p>7 report for a moment, sir, you stated that the</p> <p>8 lack of information that Barclays had about</p> <p>9 Lehman's ETD positions prior to closing was</p> <p>10 partly the result of the setup of LBI's computer</p> <p>11 systems which lumped together both</p> <p>12 exchange-traded derivatives and over-the-counter</p> <p>13 derivatives. Do you see that part of your</p> <p>14 opinion, sir?</p> <p>15 A. Yes.</p> <p>16 Q. Is that opinion based on anything</p> <p>17 other than a reading of Mr. King's testimony?</p> <p>18 A. No.</p> <p>19 Q. Was Mr. King, to your knowledge, ever</p> <p>20 employed by Lehman, sir?</p> <p>21 A. I don't know.</p> <p>22 Q. As you understand it, he was employed</p> <p>23 by Barclays, correct?</p> <p>24 A. Yes.</p> <p>25 MS. BLOOMER: Objection.</p>
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<p>1 A. Leitner</p> <p>2 Q. Did you do anything to test whether or</p> <p>3 not Mr. King's statement about the lack of</p> <p>4 information that Barclays had about the</p> <p>5 exchange-traded derivatives prior to closing</p> <p>6 being partly the result of the set-up of LBI's</p> <p>7 computer systems?</p> <p>8 MS. BLOOMER: Objection to the form of</p> <p>9 the question.</p> <p>10 Q. Sorry. Did you do anything to test</p> <p>11 whether or not that statement by Mr. King was</p> <p>12 true?</p> <p>13 A. No.</p> <p>14 Q. Does it seem credible to you that a</p> <p>15 sophisticated broker-dealer such as LBI would</p> <p>16 have a computer system that would not be able to</p> <p>17 separate exchange-traded and over-the-counter</p> <p>18 derivatives?</p> <p>19 MS. BLOOMER: Objection to the form</p> <p>20 and scope of his opinion.</p> <p>21 A. I would not be surprised, based on my</p> <p>22 experience in the industry, that a sophisticated</p> <p>23 firm for purposes of its management of its</p> <p>24 equity derivatives books, trading books, would</p> <p>25 combine all of its exposures in one place and</p>	<p>1 A. Leitner</p> <p>2 that it would take a degree of expertise based</p> <p>3 on someone knowledgeable about the systems to</p> <p>4 know how to extract the particular risk profiles</p> <p>5 you wanted to see within that book, very much</p> <p>6 dependent upon the organization structure and</p> <p>7 technological capabilities of each firm, but it</p> <p>8 would not surprise me if in fact the proprietary</p> <p>9 equity derivatives positions were combined.</p> <p>10 Q. Would it surprise you if it were</p> <p>11 impossible to extract from Lehman's computer</p> <p>12 systems a report that separated the</p> <p>13 exchange-traded and over-the-counter</p> <p>14 derivatives?</p> <p>15 A. Would you read back the question,</p> <p>16 please?</p> <p>17 (Record read.)</p> <p>18 A. It would surprise me if any firm</p> <p>19 couldn't eventually get a report of all its</p> <p>20 exchange-traded derivatives positions. I have</p> <p>21 no knowledge of how, assuming that the document</p> <p>22 with -- many-thousand-page document or whatever</p> <p>23 it is, many thousand positions that were</p> <p>24 delivered to Barclays on the Friday night, which</p> <p>25 computer system they were extracted from. All I</p>

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1 A. Leitner
2 know is that the testimony that I was -- that I
3 based my statements on page 62 was that, prior
4 to the Friday, Mr. King's understanding,
5 presumably from something he heard from the
6 Lehman side, I don't know what, was that they
7 were having problems extracting the listed
8 positions from the OTC positions which were not
9 coming over.
10 Q. When you met with the Lehman's
11 operations people, did, including Mr. Dzeimian
12 and Mr. Jones, did you ask them whether anybody
13 asked them in the week of September 15 to
14 extract any information from Lehman's computer
15 systems about Lehman's exchange-traded
16 derivatives portfolio?
17 A. I did not ask them.
18 Q. You didn't ask them whether or not Mr.
19 King's statement that you rely upon in paragraph
20 62 of your report was in any way accurate?
21 MS. BLOOMER: That's another question?
22 MR. OXFORD: Yes, it's another
23 question.
24 A. My conversations with those gentlemen
25 had to do with the management of the collateral,

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1 A. Leitner
2 Q. What's the name of that report, sir?
3 A. I don't remember.
4 Q. Would you characterize it as a
5 positions report?
6 A. Yes.
7 Q. And the OCC are able to generate a
8 report for each account held by each
9 broker-dealer, correct?
10 A. Yes.
11 Q. They're able to do that fairly easily,
12 aren't they, sir?
13 A. Should be able to, yes.
14 Q. And in fact, these reports are
15 provided to broker-dealers who are OCC members
16 on a routine basis, are they not?
17 MS. BLOOMER: Objection to the
18 question.
19 A. My -- I'm not certain whether today
20 that's a query that the firm can make and,
21 therefore, pull it whenever they want or whether
22 they have to request a download from OCC.
23 Q. Okay. So whether the broker-dealer
24 has to request the data from the OCC or whether
25 the broker-dealer has direct access to the OCC's

1 A. Leitner
2 not with the risk of or composition of the
3 options book. It would not have occurred to me
4 to ask them, given my knowledge of what their
5 job was, to test that question. I would have
6 been shocked if they knew the answer.
7 Q. Did you talk to anybody who would know
8 whether or not what Mr. King said was correct?
9 A. No.
10 Q. You're aware, sir, that Lehman had a
11 long-standing relationship with the OCC,
12 correct?
13 A. Based on my industry experience, yes,
14 I'm aware.
15 Q. And as a result -- withdrawn. Based
16 on your expertise in the industry, sir, you are
17 aware, are you not, that a broker-dealer such as
18 Lehman has access to reports from the OCC's
19 computer systems?
20 A. Yes.
21 Q. The OCC is able to generate a report
22 from its computer systems that shows the
23 positions held by each of the broker-dealers who
24 are members of that corporation, correct?
25 A. Yes.

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1 A. Leitner
2 computer systems, you agree that a broker-dealer
3 can quickly and easily obtain a report from the
4 OCC as to the positions that that broker-dealer
5 holds at the OCC, correct?
6 MS. BLOOMER: Objection to the form of
7 the question.
8 A. Yes.
9 Q. And that holds true as of September
10 2008, correct, not just today?
11 A. Yes.
12 Q. Barclays is a member of the OCC as
13 well, correct?
14 A. Yes.
15 Q. How long has Barclays been a member of
16 the OCC for?
17 A. I have no idea.
18 Q. Do you know if Barclays was a member
19 of the OCC in 2008?
20 A. Without certainty as to the structure
21 of Barclays, a Barclays entity, and it could
22 have been BCI, was a member of OCC, that's my
23 understanding.
24 Q. And do you have any understanding,
25 sir, of how long prior to September 2008 the

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<p>1 A. Leitner</p> <p>2 Barclays entity, whether it's BCI or some other</p> <p>3 Barclays entity, had been a member of --</p> <p>4 A. No.</p> <p>5 Q. -- the OCC?</p> <p>6 A. I don't have any knowledge about that.</p> <p>7 Q. Is it reasonable in your expert</p> <p>8 opinion, sir, to assume that Barclays, as a</p> <p>9 member of the OCC, would have had an</p> <p>10 understanding of the types of reports and data</p> <p>11 available to a broker-dealer such as LBI from</p> <p>12 the OCC's computer systems?</p> <p>13 A. I would assume they did know that,</p> <p>14 yes. Somewhere in the organization.</p> <p>15 Q. Do you have any reason to believe,</p> <p>16 sir, that the information on the OCC's computer</p> <p>17 systems as of the week of September 15, 2008</p> <p>18 regarding the LBI positions at the OCC was</p> <p>19 inaccurate?</p> <p>20 MS. BLOOMER: Objection to the form of</p> <p>21 the question.</p> <p>22 A. I have no reason to believe it was</p> <p>23 inaccurate.</p> <p>24 Q. Do you have any reason to believe that</p> <p>25 information on the OCC's computer systems was</p>	<p>1 A. Leitner</p> <p>2 incomplete in the week of September 15 --</p> <p>3 A. No.</p> <p>4 MS. BLOOMER: Objection to the form of</p> <p>5 the question.</p> <p>6 Q. -- 2008?</p> <p>7 A. No.</p> <p>8 Q. You're aware, sir, are you not, that</p> <p>9 Barclays was in direct contact with the OCC</p> <p>10 prior to the closing of this transaction?</p> <p>11 MS. BLOOMER: Objection to the form of</p> <p>12 the question. Assumes facts not in</p> <p>13 evidence.</p> <p>14 A. Can you put a context and a timeframe?</p> <p>15 I mean, they were, as members of OCC,</p> <p>16 Barclays -- some people at Barclays would be in</p> <p>17 touch with OCC daily. So --</p> <p>18 Q. In connection with this transaction,</p> <p>19 sir, we looked at an e-mail from the OCC to Mr.</p> <p>20 Ed Rosen of Cleary, who is Barclays outside</p> <p>21 counsel, do you remember that?</p> <p>22 A. Correct.</p> <p>23 Q. So we know based, if nothing else, on</p> <p>24 that e-mail, we know that there was direct</p> <p>25 contact between the OCC and Barclays' counsel,</p>
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<p>1 A. Leitner</p> <p>2 correct?</p> <p>3 MS. BLOOMER: Barclays' counsel did</p> <p>4 you say?</p> <p>5 MR. OXFORD: Yes.</p> <p>6 A. Right. Yes.</p> <p>7 Q. Do you have any reason to believe that</p> <p>8 the OCC reports of LBI's positions during the</p> <p>9 week of September 15 could not have been made</p> <p>10 available to Barclays?</p> <p>11 MS. BLOOMER: Objection to the form of</p> <p>12 the question.</p> <p>13 A. I don't know why they couldn't have</p> <p>14 been. I also don't know why they weren't.</p> <p>15 Q. Do you think a rational purchaser</p> <p>16 would have requested a report from the OCC of</p> <p>17 Lehman's derivatives positions prior to signing</p> <p>18 the Asset Purchase Agreement in this case?</p> <p>19 MS. BLOOMER: Objection to the form of</p> <p>20 the question.</p> <p>21 A. Under the chaotic circumstances of</p> <p>22 this case, with the, what appeared to me,</p> <p>23 relatively small number of people working on the</p> <p>24 deal documents and transactions on both sides,</p> <p>25 that is what appears to me to be the case, that</p>	<p>1 A. Leitner</p> <p>2 the Barclays people relied on a small number of</p> <p>3 people on the Lehman side to give them the</p> <p>4 information that they needed.</p> <p>5 Whether it would have been a good idea</p> <p>6 for them to try and get OCC to give them this</p> <p>7 information at some point in time, would it have</p> <p>8 been a good idea? Well, sure. I'm not certain,</p> <p>9 by the way, that OCC would have accommodated</p> <p>10 them since they have no obligation to provide</p> <p>11 the information from, you know, one member to</p> <p>12 another.</p> <p>13 But I think it's also important to</p> <p>14 keep in mind that Barclays at some point was</p> <p>15 also becoming aware that, both with respect to</p> <p>16 the customer positions and with respect to the</p> <p>17 proprietary positions, they were -- there was</p> <p>18 some quantity of option positions in there that</p> <p>19 were not really proprietary positions because</p> <p>20 they were positions of affiliates, and that with</p> <p>21 respect to the customer positions, there were</p> <p>22 similarly positions that really were being</p> <p>23 carried for Lehman affiliates.</p> <p>24 And so the risk management challenge</p> <p>25 to Barclays was only in part based upon their</p>

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<p>1 A. Leitner</p> <p>2 ability to, you know, assess the overall risk of</p> <p>3 the thousands of positions for which they were</p> <p>4 responsible.</p> <p>5 Q. You've testified, sir, that Barclays,</p> <p>6 in assuming responsibility for Lehman's</p> <p>7 exchange-traded derivative portfolio, faced</p> <p>8 unquantifiable risks as of closing, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you agree with me --</p> <p>11 MS. BLOOMER: I object to the</p> <p>12 characterization of the testimony. Just</p> <p>13 give me a moment. I'm sorry. I didn't get</p> <p>14 my objection in quick enough.</p> <p>15 THE WITNESS: Sorry.</p> <p>16 Q. Do you believe, sir, that it would</p> <p>17 have been prudent for Barclays, prior to</p> <p>18 agreeing to assume that unquantifiable risk, to</p> <p>19 have requested, whether directly from the OCC or</p> <p>20 from the OCC via Lehman, a report of the</p> <p>21 derivatives portfolio for which it was assuming</p> <p>22 or proposing to assume responsibility?</p> <p>23 A. My understanding is that there was a</p> <p>24 wide range of businesses, assets, people and so</p> <p>25 forth involved in this transaction being managed</p>	<p>1 A. Leitner</p> <p>2 by a relatively small team on both sides. As</p> <p>3 important as the derivatives clearing business</p> <p>4 was, this was a subset of all the issues that</p> <p>5 people were worried about, including Mr. King,</p> <p>6 and so it is not surprising to me that, in</p> <p>7 trying to assess and manage all the risks of the</p> <p>8 businesses that they were taking on, the fixed</p> <p>9 income portfolios, which assets they were going</p> <p>10 to take and not take, other aspects of the</p> <p>11 transaction that were not related to the</p> <p>12 equities book, that some of the things that</p> <p>13 would have been good to do or even important to</p> <p>14 do were not done.</p> <p>15 I think that, given the short</p> <p>16 timeframe and the many issues that they were</p> <p>17 running with, they did as good a job they could</p> <p>18 have done, but that's only my, you know,</p> <p>19 assessment of, you know, the facts. And I</p> <p>20 believe they were getting -- it appears to me</p> <p>21 that they were getting as much cooperation as</p> <p>22 they could from the Lehman side as quickly as it</p> <p>23 could be provided.</p> <p>24 But the Lehman team was, you know,</p> <p>25 this was just one of the many issues they were</p>
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<p>1 A. Leitner</p> <p>2 trying to deal with. That is the impression I</p> <p>3 take away from, you know, the broader record</p> <p>4 that I have seen and why, you know, in many</p> <p>5 cases in the depositions that I looked at the</p> <p>6 exchange-traded derivatives portion of those</p> <p>7 depositions is only a small portion of the</p> <p>8 deposition.</p> <p>9 Q. Do you believe --</p> <p>10 A. I think, in other words, I believe</p> <p>11 that the context described in my report about</p> <p>12 the chaotic nature of this transaction has to be</p> <p>13 taken into account whenever we are dealing with</p> <p>14 the "would have been's," "could have been's,"</p> <p>15 "should have been's."</p> <p>16 Q. Do you believe, Mr. Leitner, that it</p> <p>17 would have been prudent for Barclays, prior to</p> <p>18 agreeing to assume the unquantifiable risk in</p> <p>19 Lehman's exchange-traded derivatives portfolio,</p> <p>20 to have requested, whether directly from the OCC</p> <p>21 or from the OCC via Lehman, a report of the</p> <p>22 derivatives portfolio for which it was proposing</p> <p>23 to assume responsibility?</p> <p>24 MS. BLOOMER: Objection to the</p> <p>25 question. Asked and answered.</p>	<p>1 A. Leitner</p> <p>2 Q. Would it have been prudent, sir?</p> <p>3 MS. BLOOMER: Objection to the</p> <p>4 question. Asked and answered.</p> <p>5 A. Unnecessary. Good backup. I wouldn't</p> <p>6 call it it's of such a prudential nature that,</p> <p>7 because it -- just keep in mind it wouldn't have</p> <p>8 told them anything else about the, what -- about</p> <p>9 the package of unquantifiable risks, when I use</p> <p>10 that word, that I intended to describe, and that</p> <p>11 included the credit risks related to the</p> <p>12 positions that they discovered they were</p> <p>13 carrying for affiliates and the like. So it</p> <p>14 wouldn't have told them anything about that.</p> <p>15 And so it could have been helpful but not</p> <p>16 necessary. It didn't matter really where they</p> <p>17 got the information.</p> <p>18 Q. Is that a question, it wouldn't have</p> <p>19 been prudent?</p> <p>20 MS. BLOOMER: Objection. Asked and</p> <p>21 answered twice now.</p> <p>22 A. Prudent, but unnecessary.</p> <p>23 Q. Why unnecessary, sir? Unnecessary</p> <p>24 because they had the information from someone</p> <p>25 else or because they didn't need the</p>

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1 A. Leitner
2 information?
3 A. Because they wanted to do the deal.
4 And I'm talking about the entire transaction.
5 It appears that everyone was motivated to get
6 the transaction done. And this was -- this was
7 a portion, although an important portion of the
8 transaction, and so you are -- I don't
9 understand the point of your question.
10 If you're isolating a single event as
11 being, you know, prudent or required, the reason
12 I said not required was because they were --
13 because of the context of the transaction as a
14 whole and the fact that they would be getting
15 the assets supporting the businesses, I guess
16 they were willing to work it out.
17 Q. I thought you said, sir, that they
18 were only getting the assets or they needed the
19 assets according to the businesses because they
20 didn't know this unquantifiable risk, right,
21 that's your testimony?
22 MS. BLOOMER: Objection to the
23 characterization of his testimony.
24 A. I don't think I said anything
25 inconsistent with my prior testimony, so ...

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1 A. Leitner
2 have testified that were available from the OCC,
3 sir, would those reports help Barclays quantify
4 the risks inherent in assuming Barclays'
5 derivatives portfolio?
6 A. Those reports and any other
7 information that they could get about the
8 portfolios would have helped them assess the
9 risk.
10 Q. I'm going to hand to you what I've
11 marked as Exhibit 564 -- actually, what I'm
12 about to mark as Exhibit 654.
13 (Exhibit 654, an e-mail from Sheila
14 Zach to Richard Konefal at Barclays Capital
15 copied to Dan Dzeimian and others Monday,
16 September 22 at 4:41 P.M., marked for
17 identification, as of this date.)
18 Q. Exhibit 654, sir. I'll identify this
19 for the record, sir, as an e-mail from Sheila
20 Zach to Richard Konefal at Barclays Capital,
21 copied to Dan Dzeimian and others Monday,
22 September 22, at 4:41 P.M.
23 MS. BLOOMER: Can you wait until I
24 have the document so that I can see that
25 you're identifying it accurately?

1 A. Leitner
2 Q. I'm trying to understand, sir, why
3 when you've testified that Lehman faced --
4 sorry, that Barclays faced an unquantifiable
5 risk in assuming responsibility for Lehman's
6 derivatives portfolio, and that, as a
7 consequence of that unquantifiable risk,
8 Barclays would only have taken that risk if it
9 had the assets, the margin securing those risks,
10 why it wouldn't have been necessary for Barclays
11 to get information such as the information from
12 the OCC about the risks inherent in the
13 derivatives portfolio that it was proposing to
14 acquire from Barclays?
15 MS. BLOOMER: If that's what you're
16 trying to understand, then I suggest you ask
17 the question that poses that, because that's
18 a different question. The risks inherent in
19 the derivatives. The risks, you said this
20 time, information from the OCC asking him
21 for information from the OCC about the risks
22 inherent in the derivatives portfolio. That
23 is a different question, Neil. Please don't
24 confuse the witness.
25 Q. Would a report such as the ones you

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1 A. Leitner
2 MR. OXFORD: And the exhibit I have
3 marked is the full document. In the
4 interest of not killing trees, everybody
5 else has excerpted ones. We can deal with
6 that if that becomes a problem.
7 Q. Can you take a moment to review that
8 document, sir and tell me whether you've ever
9 seen it before?
10 A. It looks familiar.
11 Q. It looks familiar from where, sir?
12 A. Because I believe I've seen it before.
13 Q. In what circumstances have you seen
14 it?
15 A. I believe this was an exhibit to
16 somebody's testimony. I don't remember whose.
17 Q. Did you review it in preparation for
18 your deposition today, sir?
19 A. I reviewed it in connection with the
20 preparation of my report.
21 Q. You see on the second page of that
22 e-mail at 3:47 P.M. on Monday, the 22nd of
23 September, Mr. Konefal at Barclays sends an
24 e-mail to Michael Evans of New York, at New
25 York, entitled "Options Positions."

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1 A. Leitner
2 A. I'm looking -- I'm sorry, which?
3 Q. The bottom of the second page, sir,
4 which has the Bates number 36754.
5 A. At 3:47, is that the one?
6 Q. Yes, 3:47 P.M. Do you see that, sir?
7 A. I'm reading it now.
8 Okay.
9 Q. Do you see that Mr. Konefal of
10 Barclays asks Mr. Evans of Lehman Brothers for
11 an OCC file of open positions in 074 for the
12 firm in market-making ranges, do you see that?
13 A. Yes.
14 Q. Do you see that Mr. Evans then
15 forwards this request to the OCC?
16 A. Okay.
17 Q. And do you see that by 4:41 P.M.,
18 Sheila Zach has provided the requested report to
19 Mr. Konefal?
20 A. Okay.
21 Q. Do you see that, sir?
22 A. Yes.
23 Q. Do you agree that in less than one
24 hour of Barclays' request for an OCC positions
25 report, the OCC has provided that to Barclays?

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1 A. Leitner
2 that are hedging this book, are there -- are
3 these all the prop account positions or does
4 anybody else have an interest in the positions,
5 would be the among questions you would need to
6 know.
7 Q. What else, sir?
8 A. This, this report and data, by the
9 way, to the extent that it went to the
10 operations people, would have been necessary for
11 them to know in order to know -- be able to sort
12 the options not only by Cusip or party, but also
13 by expiration, because they would be concerned
14 about preparing for exercises on the long or
15 short side.
16 Q. That's all I have for that exhibit,
17 sir.
18 Is it your opinion, Mr. Leitner, that
19 there was market risk to Barclays in unvetted
20 futures positions?
21 A. Yes.
22 Q. Can you explain for me what that
23 market risk was?
24 A. Depends on the futures, but you either
25 have a long or a short position, and as the

1 A. Leitner
2 A. Yes.
3 Q. Could you take a moment to look at the
4 attachments, the reports that are attached to
5 Mr. -- I'm sorry, Ms. Zach's e-mail?
6 A. I see it.
7 Q. Are you familiar with these types of
8 reports, sir?
9 A. You know, I've seen them once or twice
10 in the course of my career, or reports similar
11 to this.
12 Q. In your opinion as an expert in this
13 industry, sir, does the report that's attached
14 to the e-mail that I have marked as Exhibit 654
15 provide information that would have been useful
16 to Barclays in quantifying the risks of owning
17 Lehman's exchange-traded derivatives portfolio?
18 A. Yes.
19 Q. Is there any other information that
20 Barclays would have needed to know in order to
21 manage the risk inherent in Lehman's
22 exchange-traded derivatives portfolio?
23 A. Yes.
24 Q. What's that information, sir?
25 A. What positions do I have behind it

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1 A. Leitner
2 market moves, you are required to either make or
3 take daily variation payment. So for any
4 position that is on you have a potential
5 immediate funding requirement for that position,
6 usually in cash.
7 So, whereas on the option marketplace
8 you can use various types of collateral to cover
9 your existing margin requirement, the futures
10 market has a daily cash settlement requirement.
11 So there is a liquidity component that's a
12 little bit different than option margin.
13 Q. Futures are marked to market every
14 day; isn't that correct, sir?
15 A. Yes.
16 Q. Was there risk to Barclays in taking
17 Lehman's option -- sorry, futures positions that
18 there would be an immediate liability when the
19 markets opened on the 22nd, or was the risk that
20 the markets would move against these positions
21 and Barclays would have to pay variation margin?
22 MS. BLOOMER: Object to the form of
23 the question.
24 A. If I understood your question, I don't
25 know that they're mutually exclusive. I mean,

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1 A. Leitner
2 you have a risk, as soon as you take them over,
3 to meet your clearing obligations, and to the --
4 and the clearing obligations of all the options
5 you have taken over as a clearing member,
6 customer or firm, and to see that there is
7 adequate margin there at all times. I think
8 I've described the risks in my report.
9 Q. Do you believe that the risks to
10 Barclays in taking over the futures positions
11 from Lehman were the same with respect to
12 customer and firm futures?
13 A. Well, the types of risks that I
14 described in my report apply to a clearing
15 member's responsibilities to the exchange for
16 either the proprietary or customer position. I
17 have this mix of market, liquidity, sort of
18 funding and credit risks, and all of those are
19 present regardless of the type of
20 exchange-traded derivative you're talking about.
21 So my quibble about, you know, which
22 risks are more acute in which market, they're
23 all -- they all exist. And then there's the
24 operational component, particularly with respect
25 to the foreign futures, of having the

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1 A. Leitner
2 A. They tried.
3 Q. Tell me what they tried to do.
4 A. My understanding is that, as I think I
5 testified before, that -- and I believe is
6 reflected in the testimony of Elizabeth James --
7 that Barclays was contacted at some point prior
8 to the signing of the Asset Purchase Agreement
9 about whether they were interested in acquiring
10 the FCM business as a separate business from
11 Barclays, and so there was at least one
12 operational meeting to -- in which Barclays was
13 trying to learn about what that business looked
14 like and in which markets they were operating.
15 Q. Does that answer, sir, exhaust your
16 knowledge of the due diligence that Barclays
17 did, or tried to do, on the Lehman futures
18 business?
19 MS. BLOOMER: Objection. At what
20 timeframe are we talking about?
21 MR. OXFORD: Prior to closing.
22 MS. BLOOMER: I don't know that we've
23 defined "closing." You mean September 22,
24 2008?
25 MR. OXFORD: Is there another closing

1 A. Leitner
2 responsibility but having to work out
3 arrangements to take over those positions.
4 Q. Was there also a potential upside to
5 Barclays in taking over the Lehman firm futures
6 positions?
7 A. Yes.
8 Q. Did Barclays do anything to quantify
9 the risk and potential benefit of taking on
10 Lehman's foreign futures positions?
11 MS. BLOOMER: Objection in that it
12 calls for testimony beyond the scope of his
13 expertise and report.
14 A. I believe you asked me this question
15 before. I would give the same answer, which is
16 I don't know that there was any specific
17 discussion. I'm not aware of any. In terms of
18 how they value or whether they valued this
19 aspect of the transaction in some specific way
20 as opposed to this was simply a part of this
21 larger transaction that they were doing of
22 acquiring the businesses.
23 Q. Are you aware, sir, whether or not
24 Barclays did any due diligence on Lehman's
25 futures business?

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1 A. Leitner
2 date you're aware of?
3 MS. BLOOMER: I don't think you've
4 ever established with Tony Leitner what you
5 mean by "the closing," so I would like you
6 to establish the date so that he's clear on
7 the question.
8 Q. Prior to the closing of the
9 transaction, sir, on September 22, 2008, which
10 is a Monday, other than the answer you gave me a
11 moment ago, do you have any information about
12 the due diligence that Barclays did, or
13 attempted to do, before acquiring Barclays'
14 futures business?
15 A. Only insofar as it is described in the
16 testimony and declaration of Elizabeth King -- I
17 mean Elizabeth --
18 Q. James?
19 A. Liz James.
20 Elizabeth King works for the S.E.C.,
21 so ...
22 Q. I'm sure Ms. James would take the
23 promotion.
24 A. No, she wouldn't.
25 Q. If not the pay cut.

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<p>1 A. Leitner</p> <p>2 A. No, she wouldn't. She wouldn't want</p> <p>3 Elizabeth's job.</p> <p>4 Q. In Ms. James' testimony at her</p> <p>5 deposition she said that Barclays did not</p> <p>6 believe there was a proprietary futures business</p> <p>7 left at Lehman, so she did not believe that</p> <p>8 there were any house futures positions to take</p> <p>9 over. Do you remember seeing that testimony?</p> <p>10 A. No.</p> <p>11 MS. BLOOMER: Objection to the</p> <p>12 characterization.</p> <p>13 A. No, I don't remember seeing that</p> <p>14 testimony.</p> <p>15 Q. Assuming that is Ms. James' testimony,</p> <p>16 do you agree that Barclays did not take on any</p> <p>17 risks, or did not knowingly take on any risks in</p> <p>18 Barclays -- withdrawn. Let me try that again</p> <p>19 properly.</p> <p>20 If you assume that my representation</p> <p>21 that Ms. James testified that Barclays did not</p> <p>22 believe it was assuming any proprietary futures</p> <p>23 business from Lehman, would you agree with me,</p> <p>24 sir, that Barclays did not knowingly take on any</p> <p>25 risks associated with Lehman's proprietary</p>	<p>1 A. Leitner</p> <p>2 futures business?</p> <p>3 MS. BLOOMER: Objection to the form of</p> <p>4 the question and to the characterization of</p> <p>5 Ms. James' testimony.</p> <p>6 A. I believe my report states, and</p> <p>7 certainly my own knowledge of the transaction</p> <p>8 is, that Barclays' knowledge of the full range</p> <p>9 of derivative positions which it was agreeing to</p> <p>10 take on was imperfect and that it was prepared</p> <p>11 to take on the clearing responsibilities in</p> <p>12 spite of its imperfect knowledge in the context</p> <p>13 of this transaction, and as I indicated, that a</p> <p>14 basis for them to be willing to do so was that</p> <p>15 whatever collateral was there to secure those</p> <p>16 positions would be part of the business and,</p> <p>17 therefore, so if they wound up in fact having</p> <p>18 proprietary positions that they didn't expect,</p> <p>19 they would also have whatever collateral was</p> <p>20 there to support that.</p> <p>21 Q. Would you agree with me, sir, that</p> <p>22 because futures positions are marked to market</p> <p>23 every day, they are flat at the end of the</p> <p>24 trading day?</p> <p>25 MS. BLOOMER: Objection to the form.</p>
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<p>1 A. Leitner</p> <p>2 A. Traders would not use the term "flat"</p> <p>3 to describe the exposure in a futures book.</p> <p>4 Q. Do you understand what I'm talking</p> <p>5 about when I use the term "flat"?</p> <p>6 MS. BLOOMER: Objection.</p> <p>7 A. I'm not sure I do.</p> <p>8 Q. Can you tell me how a trader, then,</p> <p>9 would --</p> <p>10 A. "Flat" normally would --</p> <p>11 Yes, I can --</p> <p>12 MS. BLOOMER: Let him finish his</p> <p>13 question.</p> <p>14 A. -- describe how a trader would</p> <p>15 describe "flat." Would you like me to do so?</p> <p>16 Q. Please.</p> <p>17 A. The way a trader would describe "flat"</p> <p>18 is he takes the position at the beginning of the</p> <p>19 day. For example, he would go long a S&P</p> <p>20 futures contract, and at the end of the day he</p> <p>21 would have sold that contract and, therefore, he</p> <p>22 has no exposure. He would be flat. He has</p> <p>23 generated a loss or a profit as a result of</p> <p>24 being in and out of the transaction during that</p> <p>25 day.</p>	<p>1 A. Leitner</p> <p>2 But to a trader, "flat" means no risk,</p> <p>3 and in this case, if the positions are still on,</p> <p>4 there is risk. All you have done in making any</p> <p>5 variation margin payment is simply complying</p> <p>6 with an exchange or broker's requirement to</p> <p>7 reflect the change in value from the beginning</p> <p>8 of the day or the previous evening until the</p> <p>9 next day.</p> <p>10 And you might receive a payment or you</p> <p>11 would make a payment based on that change in</p> <p>12 value, but as I think I made clear in my report,</p> <p>13 it is also possible that you will be asked to</p> <p>14 make a payment in the middle of the day. That</p> <p>15 is not uncommon. And so part of the particular</p> <p>16 risks of the futures business is the need for</p> <p>17 liquidity to be able to make those payments,</p> <p>18 particularly with respect to foreign markets,</p> <p>19 where the practice is often to require that the</p> <p>20 assets and the cash be there before you can even</p> <p>21 trade.</p> <p>22 MS. BLOOMER: Neil, whenever you're</p> <p>23 ready for another break, I think I am.</p> <p>24 MR. OXFORD: I'll take a two-minute</p> <p>25 break if you guys need it.</p>

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<p>1 A. Leitner 2 (Recess; Time Noted: 3:18 P.M.) 3 (Time Noted: 3:26 P.M.) 4 BY MR. OXFORD: 5 Q. Mr. Leitner, I want to go back to one 6 question and answer we had a few moments ago. 7 In the futures business, and I'm 8 talking about the proprietary futures business, 9 when Barclays acquired the business with effect 10 from the morning before the markets opened on 11 the 22nd of September, were the positions, the 12 futures positions, an asset or a liability? Or 13 were they neither? Were they a potential asset 14 or liability depending on whether the market 15 moved against or towards the position? 16 MS. BLOOMER: Objection to the form of 17 the question. 18 A. I'm not in a position to give an 19 accounting answer. A future is a contract for 20 future performance subject to the rules of the 21 market on which it's traded, and I've described 22 in my report both the mechanisms for securing a 23 party's performance and the potential risks. 24 Q. I'm not asking for an accounting 25 answer, sir. I'm asking for your answer as an</p>	<p>1 A. Leitner 2 expert in this industry in 30 or 40 years to 3 tell me whether or not, before the markets 4 opened or immediately on the market's opening on 5 September 22, 2008, there is an immediate loss 6 or gain to Barclays because they now own these 7 futures contracts? 8 MS. BLOOMER: Objection to the form of 9 the question. 10 Q. Do you understand my question, sir? 11 A. Yes, I think I do. The way I would 12 describe it is that there is an immediate 13 exposure to gain or loss as a result of market 14 movements in the underlying -- in the underlier 15 of the futures contract, whatever it happens to 16 be. 17 Q. In your opinion, sir, would a rational 18 purchaser of futures positions in any 19 circumstances take those positions without the 20 margin that's posted to cover those positions at 21 the exchanges? 22 A. Let me start by saying it would be 23 impossible to take on futures positions, for a 24 new party to take on futures positions without 25 them being margined, and the -- assuming the</p>
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<p>1 A. Leitner 2 rules for contract market would allow a change 3 of beneficial ownership of the underlying 4 contract, they would, in my opinion, tend to do 5 so only with the movement of the underlying 6 collateral. 7 Q. And in your experience, sir -- 8 A. Excuse me. Let me answer your 9 question. 10 Q. Sorry. I thought you were finished. 11 A. Therefore, it would be -- I think your 12 question was would it be rational for someone 13 acquiring futures contracts to do so without the 14 margin? It would be both, in my view, 15 irrational and virtually impossible to do so 16 without the movement of the underlying 17 collateral. 18 Q. And in your experience, sir, if the 19 underlying collateral was purchased along with 20 the futures position, the contract, would the 21 purchase price reflect the acquisition of the 22 asset that is the collateral posted at the 23 exchange to secure the performance of the 24 futures contract? 25 MS. BLOOMER: Objection to the form of</p>	<p>1 A. Leitner 2 the question. 3 A. You're asking a hypothetical that is 4 not this case, because this case is this strange 5 acquisition of a business through an ostensible 6 sale of purchase of assets and assumption of 7 liabilities. Included in that is the 8 replacement of one clearing member of an 9 exchange by another clearing member of an 10 exchange and taking on of all the contract 11 exposures. 12 So this is not simply the acquisition 13 deliberately and independently of a book of 14 derivatives, but also of the clearing business. 15 For that reason, the consequence reached here is 16 the only basis, in my view, and as I state in my 17 opinion, on which you can accomplish that 18 transaction in a rational way. That is, you 19 take on the positions along with the collateral, 20 and you don't establish a -- I'm not aware of 21 the establishment of any independent separate 22 value for that, and I think I've testified to 23 that before. 24 Q. So, in your opinion, if there's a 25 billion dollars of collateral to secure Lehman's</p>

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<p>1 A. Leitner</p> <p>2 futures positions, that's just something that</p> <p>3 goes to Barclays?</p> <p>4 A. Hypothetically, yes. Hypothetically,</p> <p>5 if that's what exists on the closing date,</p> <p>6 but...</p> <p>7 Q. And tell me, sir, if there is excess</p> <p>8 margin on Lehman's proprietary futures accounts,</p> <p>9 does a rational purchaser need the excess margin</p> <p>10 to take on Lehman's proprietary futures book?</p> <p>11 MS. BLOOMER: Objection to the form of</p> <p>12 the question.</p> <p>13 A. I believe that's particularly true in</p> <p>14 a case of futures, where the custom is in fact</p> <p>15 to, especially with regard to foreign futures,</p> <p>16 maintain balances that exceed the initial margin</p> <p>17 requirement in order to support the trading</p> <p>18 business or, in the case of customers, the FCM</p> <p>19 customer margin requirements that are required</p> <p>20 to be collected by the exchange.</p> <p>21 So it is, you know -- sorry.</p> <p>22 Q. And why does Barclays or a rational</p> <p>23 purchaser of Lehman's futures, proprietary</p> <p>24 futures book, why does Barclays need that excess</p> <p>25 capital above and beyond the initial margin</p>	<p>1 A. Leitner</p> <p>2 that's posted to secure those proprietary</p> <p>3 futures?</p> <p>4 MS. BLOOMER: Objection to the form of</p> <p>5 the question. You're turning it from</p> <p>6 something that goes to Barclays that</p> <p>7 something that Barclays needs.</p> <p>8 MR. OXFORD: Well, they're two</p> <p>9 different questions. I can't ask the same</p> <p>10 question all day. It may seem like it.</p> <p>11 MS. BLOOMER: I object to the form of</p> <p>12 your question. You changed the premise.</p> <p>13 A. So what was the question?</p> <p>14 Q. Why does Barclays for a rational</p> <p>15 purchaser of Barclays' futures, proprietary</p> <p>16 futures book, need the excess margin above and</p> <p>17 beyond the initial margin that's posted to</p> <p>18 secure the proprietary futures positions?</p> <p>19 A. The answer is found in my report,</p> <p>20 which is that in the circumstances of this</p> <p>21 transaction, taken as a whole, and given the</p> <p>22 risks of assuming the clearance responsibilities</p> <p>23 for both the clearance and the customer</p> <p>24 accounts, that a rational purchaser under these</p> <p>25 circumstances would do so only on the</p>
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<p>1 A. Leitner</p> <p>2 understanding that whatever collateral was there</p> <p>3 and with regard to futures, one would assume</p> <p>4 that there would be more collateral than</p> <p>5 theoretically necessary as a result of initial</p> <p>6 margin requirements, would come to the</p> <p>7 purchaser, namely, Barclays.</p> <p>8 Q. How would you quantify, sir, the</p> <p>9 market risk for Barclays in acquiring Lehman's</p> <p>10 proprietary futures positions.</p> <p>11 (Record read as follows: "How would</p> <p>12 you quantify --")</p> <p>13 A. "Quantify." Thank you.</p> <p>14 I have made no judgment to quantify</p> <p>15 it. Generally speaking, you quantify risk based</p> <p>16 on the nature and volatility of the underlier in</p> <p>17 the particular marketplace.</p> <p>18 Q. What would Barclays do, sir, to close</p> <p>19 out any proprietary futures that it acquired</p> <p>20 from Lehman? What steps would it take?</p> <p>21 MS. BLOOMER: Objection to the form.</p> <p>22 A. It would first have to establish that</p> <p>23 it was in a position to give an instruction to</p> <p>24 take action to close out the position, and then</p> <p>25 it would give an instruction to buy or sell the</p>	<p>1 A. Leitner</p> <p>2 opposite side of the transaction.</p> <p>3 Q. Moving to the customer futures, sir --</p> <p>4 A. Excuse me?</p> <p>5 Q. Moving to the customer futures that</p> <p>6 Barclays acquired, the customer futures?</p> <p>7 A. Yes, what about them?</p> <p>8 Q. Moving on to them.</p> <p>9 A. Okay.</p> <p>10 Q. Can you tell me, please, what the risk</p> <p>11 is to Barclays in acquiring that clearing</p> <p>12 business?</p> <p>13 A. The same measure of risks that I have</p> <p>14 used generally to define what's involved in</p> <p>15 clearing derivatives, so that would be market,</p> <p>16 credit, liquidity, and operational risk.</p> <p>17 Q. Do you know, sir, whether or not</p> <p>18 Barclays conducted any due diligence on the</p> <p>19 customers' seg and secured calculations prior to</p> <p>20 the closing of this transaction?</p> <p>21 MS. BLOOMER: Objection to the form of</p> <p>22 the question.</p> <p>23 A. I don't recall specifically what steps</p> <p>24 Barclays folks were able to actually accomplish.</p> <p>25 I am aware that they were looking for as much</p>

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<p>1 A. Leitner 2 information about these positions as they could 3 get, both where they were and the nature of the 4 positions and the amount of margin that secured 5 them. I'm less certain about when and how they 6 got the information. 7 Q. Or what information they got? 8 A. Correct. 9 (Exhibit 655, handwritten notes, 10 marked for identification, as of this date.) 11 Q. Mr. Leitner, I'm handing you what I 12 have marked as Exhibit 655. I'll identify for 13 the record as a set of handwritten notes that 14 were produced to me by counsel to Barclays. 15 Do you recognize those notes, sir? 16 A. Yes. 17 Q. Are they your notes, sir? 18 A. Yes. 19 Q. Could you turn to page 3, please? 20 MS. BLOOMER: Back to back or which? 21 MR. OXFORD: No, counting from the 22 middle. 23 MS. BLOOMER: No, one, two, the third 24 page, or the third -- 25 MR. OXFORD: The third page.</p>	<p>1 A. Leitner 2 MS. BLOOMER: -- side of the page? 3 A. They're not numbered, so ... 4 Q. The third page. Do you want to 5 identify it by what's on the top, please? 6 A. That's the fifth page. 7 Q. I think I have something -- I now have 8 a Bates-stamped copy. 9 MS. BLOOMER: That would be helpful. 10 Q. 297510. 11 A. Okay. 12 MS. BLOOMER: For the record, that's 13 the second page of the copy I have. 14 Q. Do you have that page, sir? 15 A. Yes. 16 Q. Can you tell me what it says, those 17 first three lines say? 18 A. "Customer gain. LBI buffer. 5 19 percent excess - secured account." 20 Q. Are these notes of a conversation with 21 someone you had to prepare your report, sir? 22 A. This was I think a conversation with 23 Liz James. 24 Q. What's the reference to customer gain 25 to?</p>
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<p>1 A. Leitner 2 A. I don't remember. 3 Q. What does "LBI buffer" mean? 4 A. I was interested to know what the LBI 5 practice, if Liz knew, of about what -- how much 6 excess collateral they put up in connection with 7 customer -- the customer FCM positions. 8 Q. And the next line you said reads "5 9 percent excess"? 10 A. 5 percent excess, dash, secured 11 account. 12 Q. What's the reference to a secured 13 account, sir? 14 A. That's the account maintained for 15 customer foreign futures positions. I don't 16 recall whether that reference was a reference to 17 what LBI did or what Barclays' practice was 18 because we were going back and forth with, okay, 19 what did you guys do, what do we do, and so 20 forth. So I do not know whether that note 21 specifically in fact references LBI practices or 22 Barclays' practices. 23 Q. Do you remember what, if anything, Liz 24 James told you about what she knew about 25 Lehman's practice with respect to an excess in</p>	<p>1 A. Leitner 2 the secured account? 3 A. I don't remember. 4 Q. A few lines down toward the right-hand 5 side, there's a reference that looks like "700 6 MM excess." Do you see that, sir? 7 A. Yes. 8 MS. BLOOMER: Wait. I don't. Can you 9 show me? 10 (Witness indicates.) 11 MS. BLOOMER: Thank you. 12 Q. Did I read that correctly? Is that 13 what it says, "700 MM excess"? 14 A. Yes. 15 Q. What does that mean? 16 A. I have no recollection of what that 17 was from. 18 Q. Does it perhaps reflect that there was 19 a \$700 million excess in Lehman's customers' seg 20 or secured account prior to closing? 21 A. I don't remember. I don't know 22 whether that was, you know, a reference to what 23 was in the OCC account or the -- or the futures 24 account. I just don't have any recollection. 25 Q. The next line down, it appears -- you</p>

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<p>1 A. Leitner 2 appear to write, "Generally left greater than 5 3 percent?" 4 A. Yes. 5 Q. Do you know what that's a reference 6 to? 7 A. Again, I don't remember -- I believe 8 that was again with respect to the futures 9 discussion, and I don't remember whether that 10 was a note that reflected Liz James talking 11 about the Barclays practice or the Lehman 12 practice, but I think it -- my best recollection 13 is that it -- my best recollection is that it 14 was Liz's description of what she had found that 15 Barclays was doing, which was generally to put 16 more than 5 percent in. 17 And just to step back, my experience 18 in the industry is that how much of a cushion 19 you have for customer FCM positions depends very 20 much on the customer activity and the nature of 21 the futures that they are trading. The larger 22 the customer base the more they trade. The 23 larger the margin requirement the more excess 24 you tend to put in. 25 And understanding that this is largely</p>	<p>1 A. Leitner 2 an institutional business, it would not have 3 surprised me if -- if LBI in fact maintained 4 balances well in excess of 5 percent. 5 Q. Would it have surprised you, sir, to 6 learn that Lehman had in excess in their 7 customer seg and secured account that ran into 8 hundreds of millions of dollars? 9 MS. BLOOMER: Objection to the form. 10 A. No. 11 Q. Would it surprise you, sir, to learn 12 that Lehman had in excess in its customer seg 13 and secured accounts in excess of \$1 million? 14 A. No. 15 Q. Why not, sir? 16 A. I was generally aware that Lehman was 17 one of the largest FCMs in the world, maybe 18 second or third behind my former employer, and 19 that these numbers would not be out of question 20 for the business that they did. 21 Q. Is it your opinion, sir, that Barclays 22 is entitled to any excess in the customer seg 23 and secured accounts for the Lehman futures 24 business it acquired? 25 MS. BLOOMER: Objection to the form of</p>
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<p>1 A. Leitner 2 the question; the scope that you're seeking. 3 You can answer. 4 A. Again, my -- I would put this in the 5 context of my report and of all the bases for my 6 report and simply say that these were assets 7 supporting the business, that the parties 8 intended to move to support the business, 9 particularly the FCM business. 10 Q. You testified earlier, sir, that 11 Barclays had more information about the 12 collateral that was posted in the futures 13 business than it did for the collateral posted 14 in the options business. Do you remember saying 15 that, sir? 16 MS. BLOOMER: Objection to the form. 17 A. I remember saying that. 18 Q. What information do you believe that 19 Barclays had about the collateral supporting the 20 futures business before it closed the deal with 21 Lehman? 22 A. I am not sure they had more detailed 23 information. My reference was to the fact that 24 there had been conversations about the FCM 25 business by Liz James prior to the signing of</p>	<p>1 A. Leitner 2 the APA and an attempt on her part to understand 3 that business, and so I think that she had 4 acquired -- I'm not sure this is her exact 5 testimony -- some degree of knowledge about how 6 that business was run, so -- and she was, of 7 course, a professional at Barclays which had a 8 similar business, maybe not as -- I don't know 9 whether it was as large or not. 10 So that was the basis for my 11 statement. I don't know that she had any 12 detailed customer- or collateral-related 13 information. I haven't looked at her deposition 14 for that purpose, so ... 15 Q. Is it your opinion, sir, that a 16 rational purchaser of Lehman's FCM business 17 would have required 100 percent of the excess in 18 the seg and secured amounts in order to accept 19 the risk associated with managing that customer 20 business? 21 A. I'm sorry, I thought I answered that 22 already. The answer is that, as my opinion 23 states, in the context of this transaction, it 24 was the rational thing to do, and given the -- 25 all of the factors that I cite in my report,</p>

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<p>1 A. Leitner</p> <p>2 including the lack of knowledge, the</p> <p>3 uncertainties in volatility of the markets, and</p> <p>4 the -- all the other risk I described.</p> <p>5 Q. Lack of knowledge about what, sir?</p> <p>6 A. They didn't know who the customers</p> <p>7 were or how they -- I think that, you know, they</p> <p>8 knew little more than the general structure of</p> <p>9 the business. I don't know how much information</p> <p>10 they had. They knew which markets they traded</p> <p>11 in.</p> <p>12 Q. So if you assume for purposes of my</p> <p>13 question, sir, that there was an excess in the</p> <p>14 customer seg and secured accounts of</p> <p>15 approximately a billion dollars, it's your</p> <p>16 testimony that, in order to take on the risk of</p> <p>17 managing Lehman's FCM business, Barclays needed</p> <p>18 to have that billion dollars, otherwise it</p> <p>19 wouldn't close?</p> <p>20 MS. BLOOMER: I object to the question</p> <p>21 and to the vague timeframe that you're</p> <p>22 asking about.</p> <p>23 A. Look, I -- it's impossible for me to</p> <p>24 answer this question in the abstract because</p> <p>25 what's -- just as we found in the options</p>	<p>1 A. Leitner</p> <p>2 clearance business, where there was a 500 -- up</p> <p>3 to a \$500 million move in the margin requirement</p> <p>4 any given day, the appropriate question to ask,</p> <p>5 if you had perfect knowledge, was what was the</p> <p>6 volatility of this FCM business and how much</p> <p>7 excess could disappear in a particular day of</p> <p>8 volatility. I don't know that they knew that.</p> <p>9 I don't know that -- certainly Barclays didn't</p> <p>10 know that.</p> <p>11 And so that's one of the reasons why I</p> <p>12 said, when you asked me is a billion dollars a</p> <p>13 lot, I said not necessarily, or words to that</p> <p>14 effect. Would I have been surprised if it was a</p> <p>15 billion dollars, and the answer was no, because</p> <p>16 it depended on the, you know, customer base and</p> <p>17 the potential that, you know, because there</p> <p>18 could have been many hundreds of billions of</p> <p>19 dollars of underlier for which a move could</p> <p>20 generate a margin requirement or a mark to</p> <p>21 market requirement that was substantial. And if</p> <p>22 a customer did not post that margin immediately,</p> <p>23 then there had to be, you know, money in the seg</p> <p>24 account to be able to cover it.</p> <p>25 Q. I'm handing you, sir, what has</p>
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<p>1 A. Leitner</p> <p>2 previously been marked as Exhibit 556. Have you</p> <p>3 seen this document before, sir?</p> <p>4 A. Yes.</p> <p>5 Q. When have you seen it, sir?</p> <p>6 A. I don't know. Sometime in the last</p> <p>7 month.</p> <p>8 Q. Do you see, sir, that this is an</p> <p>9 internal Barclays briefing memo about the</p> <p>10 potential acquisition of Lehman's futures</p> <p>11 business?</p> <p>12 A. Yes.</p> <p>13 Q. It's dated Monday, September 15,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. Can you tell me whether or not</p> <p>17 Barclays, in this memorandum or elsewhere,</p> <p>18 identified any of the risks that you have</p> <p>19 testified are inherent in acquiring Lehman's</p> <p>20 futures business?</p> <p>21 MS. BLOOMER: I would ask that you let</p> <p>22 him read the document if you're asking if</p> <p>23 there's something anywhere in the document.</p> <p>24 MR. OXFORD: Sure. We can go off the</p> <p>25 record for a second if you want to read the</p>	<p>1 A. Leitner</p> <p>2 whole document.</p> <p>3 (Pause in the proceedings.)</p> <p>4 A. Okay. I've read this.</p> <p>5 Sorry, what was the question?</p> <p>6 Q. Can you tell me whether or not</p> <p>7 Barclays, in the memorandum that you have in</p> <p>8 front of you, identified any of the risks that</p> <p>9 you have testified are inherent in Barclays'</p> <p>10 acquisition of Lehman's futures business?</p> <p>11 A. I don't see any such discussion in</p> <p>12 this memorandum.</p> <p>13 Q. Okay. Actually, just while you have</p> <p>14 that in front of you, sir, do you agree that</p> <p>15 Barclays identifies as a benefit to Barclays in</p> <p>16 taking over Lehman's FCM business that it will</p> <p>17 allow BarCap to double its business in size by</p> <p>18 adding annual revenues of approximately \$250</p> <p>19 million?</p> <p>20 A. I see the statement.</p> <p>21 Q. Do you disagree with that statement?</p> <p>22 MS. BLOOMER: Objection.</p> <p>23 A. I don't disagree with the fact that</p> <p>24 it's in the memorandum.</p> <p>25 Q. Do you disagree with it?</p>

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<p>1 A. Leitner</p> <p>2 A. I have no opinion one way or the other</p> <p>3 as to whether it's true.</p> <p>4 Q. You have no reason to disbelieve that</p> <p>5 it's true?</p> <p>6 MS. BLOOMER: Objection to the form of</p> <p>7 the question.</p> <p>8 Q. No reason to doubt that statement,</p> <p>9 sir?</p> <p>10 MS. BLOOMER: Object to the form of</p> <p>11 the question.</p> <p>12 A. I have no reason to believe it. I</p> <p>13 have no reason to doubt it. I have no opinion</p> <p>14 whatsoever.</p> <p>15 (Exhibit 656, and article from Futures</p> <p>16 Magazine, marked for identification, as of</p> <p>17 this date.)</p> <p>18 Q. I'm handing you, sir, what I have</p> <p>19 marked as Exhibit 656.</p> <p>20 Do you recognize that document, sir?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Can you tell me what it is, please?</p> <p>23 A. It's an article that I wrote for</p> <p>24 Futures Magazine.</p> <p>25 Q. Could you turn to the third page, sir?</p>	<p>1 A. Leitner</p> <p>2 A. Okay.</p> <p>3 Q. Do you agree in the shaded box you</p> <p>4 identify some of the risks inherent in the</p> <p>5 business of a futures commission merchant?</p> <p>6 MS. BLOOMER: Which page and which</p> <p>7 shaded box? Can you give me a page number?</p> <p>8 MR. OXFORD: The third page, Trish.</p> <p>9 It's page 58.</p> <p>10 MS. BLOOMER: Okay. Again, we have</p> <p>11 double-sided copies, so it's just confusing</p> <p>12 to say "the third page."</p> <p>13 Page 58. And where is the shaded</p> <p>14 portion?</p> <p>15 Q. Do you see, sir, there's a box</p> <p>16 entitled "Understanding the Differences in</p> <p>17 Securities and Futures" --</p> <p>18 MS. BLOOMER: I don't see a box and I</p> <p>19 don't see a shaded portion. I see the</p> <p>20 title. I just want you to know there's no</p> <p>21 shaded on our versions. He needs to know</p> <p>22 what you're directing him to.</p> <p>23 Q. Do you see the words, sir,</p> <p>24 "Understanding the Differences in Securities and</p> <p>25 Future Margin Rules"?</p>
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<p>1 A. Leitner</p> <p>2 A. Yes. What's your question?</p> <p>3 MS. BLOOMER: Do you need a moment to</p> <p>4 familiarize yourself with the article?</p> <p>5 THE WITNESS: Yes, I saw it a little</p> <p>6 while ago. So what's the question?</p> <p>7 Q. Could you turn your attention, sir, to</p> <p>8 the penultimate paragraph on that page that</p> <p>9 begins "in futures land"?</p> <p>10 A. Yes.</p> <p>11 Q. Do you see that, sir?</p> <p>12 A. Yes.</p> <p>13 Q. It says, "In futures land, margin is</p> <p>14 passed through the futures commission merchant</p> <p>15 to the clearing house. The FCM is not, in the</p> <p>16 usual case, extending its own credit to the</p> <p>17 customer. That is not to imply that there is no</p> <p>18 intermediary credit risk in futures. FCMs, like</p> <p>19 broker-dealers, face customer default risk."</p> <p>20 Do you see that, sir?</p> <p>21 A. Yes, I do.</p> <p>22 Q. You go on to write that, "To mitigate</p> <p>23 their risk to their clearing members, derivative</p> <p>24 clearing houses -- both the futures clearing</p> <p>25 houses and the OCC for U.S. listed options --</p>	<p>1 A. Leitner</p> <p>2 have developed models to determine the market</p> <p>3 risks inherent in the portfolio positions</p> <p>4 carried by their members and to collect margin</p> <p>5 commensurate with that risk."</p> <p>6 Do you believe that's an accurate</p> <p>7 statement, sir?</p> <p>8 A. I would call it accurate, but</p> <p>9 incomplete in one respect.</p> <p>10 Q. In what respect is it incomplete, sir?</p> <p>11 A. It is not the practice, necessarily,</p> <p>12 in respect to foreign futures that the customer</p> <p>13 margin is passed through to the clearing house,</p> <p>14 and in fact, in the institutional marketplace,</p> <p>15 customers will negotiate with a FCM essentially</p> <p>16 to earn interest from their futures margin</p> <p>17 deposits that necessitate the FCM using its own</p> <p>18 funds to post at the clearing house and/or in</p> <p>19 the futures account.</p> <p>20 So sometimes the margin is not, quote,</p> <p>21 passed through, unquote, to the clearing house.</p> <p>22 The point I was making in the mitigation section</p> <p>23 is that, at the intermediary level, in some</p> <p>24 cases they may collect more margin from the</p> <p>25 customer than is required for initial margin.</p>

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<p>1 A. Leitner</p> <p>2 Although, again, the practice in the</p> <p>3 institutional marketplace is that institutions</p> <p>4 usually have the market power to put up only</p> <p>5 what they're required to put up.</p> <p>6 Q. Do you know whether or not Lehman</p> <p>7 collected more margin from its customers than</p> <p>8 was required by the initial margin?</p> <p>9 A. I don't know.</p> <p>10 MR. OXFORD: Can we go off the record</p> <p>11 for one second?</p> <p>12 Can we take a short break?</p> <p>13 (Recess; Time Noted: 4:07 P.M.)</p> <p>14 (Time Noted: 4:13 P.M.)</p> <p>15 BY MR. OXFORD:</p> <p>16 Q. New topic. Sir, could you turn to</p> <p>17 paragraph 20 of your report, please. Is it your</p> <p>18 opinion, sir, that there was a substantial risk</p> <p>19 that if Lehman did not transfer its</p> <p>20 exchange-traded derivatives to Barclays and its</p> <p>21 responsibilities as a clearing broker to</p> <p>22 Barclays, that the accounts would have been</p> <p>23 liquidated and some or all of the collateral</p> <p>24 supporting those positions would have been wiped</p> <p>25 out?</p>	<p>1 A. Leitner</p> <p>2 A. Yes.</p> <p>3 Q. You say in your report, sir, at</p> <p>4 paragraph 46 and 47 that margin is calculated to</p> <p>5 ensure that the net liquidating value of</p> <p>6 positions is not less than zero, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And what that means, sir, is the OCC</p> <p>9 requires a broker-dealer to post sufficient</p> <p>10 collateral such that if it had to liquidate</p> <p>11 those positions, the OCC is comfortable it</p> <p>12 wouldn't make a loss; is that correct?</p> <p>13 MS. BLOOMER: Objection to form.</p> <p>14 A. Yes, that's the purpose of the</p> <p>15 calculation.</p> <p>16 Q. And would you agree with me that the</p> <p>17 OCC builds in a cushion to protect itself when</p> <p>18 it's calculating those margin requirements?</p> <p>19 A. Yes.</p> <p>20 Q. Have you, in your experience, sir,</p> <p>21 ever come across a situation where the OCC has</p> <p>22 liquidated a broker-dealer's positions and all</p> <p>23 of the margin posted in the OCC has been</p> <p>24 exhausted in liquidating those positions?</p> <p>25 A. I cannot remember the outcome of the</p>
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<p>1 A. Leitner</p> <p>2 liquidation of a firm in Chicago that -- and</p> <p>3 exactly, you know, what the outcome was, but</p> <p>4 there's been at least one liquidation of a</p> <p>5 firm's positions, but I don't know.</p> <p>6 I mean, let's keep in mind that the</p> <p>7 OCC also has the right, and does in fact</p> <p>8 exercise that right, to conclude that the model</p> <p>9 run overnight for the beginning of the day is</p> <p>10 not enough and to make an intraday call, and has</p> <p>11 done so in periods of market volatility for all</p> <p>12 members.</p> <p>13 Q. So, back to my question, sir. You're</p> <p>14 not aware, in your experience in the industry,</p> <p>15 of a situation where it has ever happened that</p> <p>16 the OCC liquidating a broker-dealer's position</p> <p>17 has run through the entirety of the margin</p> <p>18 posted by that member at the OCC?</p> <p>19 A. Unlike the CME, I'm not aware of an</p> <p>20 option of a clearing member. I am -- exhausting</p> <p>21 the margin. But similar models are used by</p> <p>22 intermediaries for market professionals, and I</p> <p>23 am aware that those models are not perfect and</p> <p>24 there have been defaults by clearing firms of</p> <p>25 market members using exactly the same portfolio</p>	<p>1 A. Leitner</p> <p>2 margin modeling strategy that have exhausted the</p> <p>3 collateral put up at the -- at the clearing</p> <p>4 member.</p> <p>5 So that would be, by the way,</p> <p>6 essentially what Barclays was doing in OCC for</p> <p>7 the affiliates. They were clearing those folks</p> <p>8 as though they were members.</p> <p>9 Q. In the circumstances that you just</p> <p>10 testified to, where intermediaries from market</p> <p>11 professionals use a similar margining system as</p> <p>12 the OCC?</p> <p>13 A. Right.</p> <p>14 Q. Was there excess margin above and</p> <p>15 beyond the exchange minimum requirements that</p> <p>16 was also exhausted?</p> <p>17 A. Absolutely.</p> <p>18 Q. What were those situations, sir?</p> <p>19 A. They were situations that were -- I</p> <p>20 don't remember the specific circumstances, but</p> <p>21 prior to the acquisition of First Options</p> <p>22 Corporation by Goldman Sachs, and in connection</p> <p>23 with the market break of 1987 when First Options</p> <p>24 was operating on its own and almost went under,</p> <p>25 it was brought under by the fact that it was</p>

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<p>1 A. Leitner</p> <p>2 performing that business for a number of, you</p> <p>3 know, market professionals and they blew them</p> <p>4 out.</p> <p>5 Again, that was 1987. It was a period</p> <p>6 of extreme volatility, just like we had at the</p> <p>7 time that Lehman went under and for the month</p> <p>8 thereafter. So those are -- those periods are,</p> <p>9 fortunately, infrequent, but they were true here</p> <p>10 in this case.</p> <p>11 Q. Is it your testimony, sir, that the</p> <p>12 rules used to margin by First Options</p> <p>13 Corporation back in 1987 were identical to the</p> <p>14 OCC's margin rules in 2008?</p> <p>15 A. My recollection is that models were</p> <p>16 being use at that time.</p> <p>17 Q. I understand models were being used at</p> <p>18 that time, sir, but is it the same model? Is it</p> <p>19 exactly the same?</p> <p>20 A. I don't remember. Don't remember.</p> <p>21 Q. You can't testify one way or the other</p> <p>22 whether the same model was used in the example</p> <p>23 you gave as was used by the OCC to margin in</p> <p>24 2008, correct?</p> <p>25 A. No.</p>	<p>1 A. Leitner</p> <p>2 Q. Is it consistent with your experience</p> <p>3 when the OCC liquidated a broker-dealer's</p> <p>4 positions and all of the margin was not</p> <p>5 exhausted --</p> <p>6 A. I don't have any specific case in mind</p> <p>7 to answer that question.</p> <p>8 Q. Okay. Well, let me ask this question,</p> <p>9 Mr. Leitner. If the scenario that you described</p> <p>10 at paragraph 20 of your report happened, by</p> <p>11 which I mean to say that the OCC had stepped in</p> <p>12 and liquidated Lehman's positions, if the</p> <p>13 margining requirements worked as they were</p> <p>14 intended to and protected the OCC, there would</p> <p>15 be margin left over to return to the</p> <p>16 broker-dealer, or at least the broker-dealer</p> <p>17 should be flat?</p> <p>18 A. Absolutely not.</p> <p>19 Q. Why not?</p> <p>20 A. All you need is two market moves like</p> <p>21 you had between the, I think it was the 15th and</p> <p>22 16th, or one of those days, when the market</p> <p>23 moved adversely to the proprietary positions by</p> <p>24 a significant amount. If you had that movement</p> <p>25 two days and you started the liquidation on day</p>
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<p>1 A. Leitner</p> <p>2 one, you would have -- and they hadn't put the</p> <p>3 collateral up, you would have blown through</p> <p>4 everything.</p> <p>5 So the risk is that the model works</p> <p>6 assuming you can have an orderly liquidation and</p> <p>7 a fairly static market, but if the volatility is</p> <p>8 over and above the volatility used in the model,</p> <p>9 then it suddenly doesn't work. And I think</p> <p>10 there was every reason to believe by the folks</p> <p>11 at Barclays on Monday and Tuesday when they were</p> <p>12 deciding to do this deal that that was a</p> <p>13 substantial risk.</p> <p>14 Q. Sir --</p> <p>15 A. And nor would they know at that time</p> <p>16 whether they would have enough collateral, too</p> <p>17 much, too little by the time they closed the</p> <p>18 deal on Monday when they had to make the</p> <p>19 decision about whether to do it and to sign the</p> <p>20 APA. That would be true of futures, it would be</p> <p>21 true of options, and all of the OTC derivatives</p> <p>22 that they had.</p> <p>23 Q. In the event that the OCC did go ahead</p> <p>24 and close out Lehman's positions and all of the</p> <p>25 margin was not used up, do you agree that in</p>	<p>1 A. Leitner</p> <p>2 that situation the remaining margin would be</p> <p>3 returned to the LBI estate?</p> <p>4 A. I'm sorry, would you help me make sure</p> <p>5 I understand your hypothetical?</p> <p>6 Q. Of course.</p> <p>7 A. Just say it again. Let's go through</p> <p>8 it in steps.</p> <p>9 Q. In the event that the OCC had</p> <p>10 liquidated LBI's positions at the OCC and the</p> <p>11 margin that LBI had posted to the OCC was not</p> <p>12 exhausted by that liquidation process, the</p> <p>13 remaining margin would be returned to the LBI</p> <p>14 estate, correct?</p> <p>15 A. I believe I refer to the OCC rules in</p> <p>16 my report. I believe that would be the outcome,</p> <p>17 that any assets left over would be returned to</p> <p>18 the defaulting member.</p> <p>19 Q. But it's your opinion, sir, that a</p> <p>20 liquidation by the OCC could have wiped out all</p> <p>21 of the margin held by the OCC, correct?</p> <p>22 A. Absolutely.</p> <p>23 Q. But you can't testify as to what would</p> <p>24 have happened?</p> <p>25 MS. BLOOMER: You have to answer</p>

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<p>1 A. Leitner</p> <p>2 verbally.</p> <p>3 A. I can only testify that the rules</p> <p>4 allow for a liquidation, and you would need to</p> <p>5 know what the market conditions were under which</p> <p>6 the liquidation occurred in order to make any</p> <p>7 determination as to what the outcome would be.</p> <p>8 Q. Did you do any analysis, sir, of what</p> <p>9 the outcome would have been if Barclays had not</p> <p>10 bought LBI's derivatives business?</p> <p>11 A. No.</p> <p>12 Q. You haven't done any analysis to allow</p> <p>13 you to testify that all of the margin that LBI</p> <p>14 posted at the OCC would have been exhausted by a</p> <p>15 close-out, a liquidation by the OCC?</p> <p>16 A. Could have been, not would have been I</p> <p>17 believe was what I said in my opinion, and I</p> <p>18 gave you a scenario just a short time ago in</p> <p>19 which that could have happened, and it was a</p> <p>20 scenario that in fact it occurred during that</p> <p>21 week at least on one day.</p> <p>22 Q. And it also could have happened, sir,</p> <p>23 that there would have been substantial margin</p> <p>24 left over after the OCC liquidation, correct?</p> <p>25 A. Take a snapshot anytime you want and</p>	<p>1 A. Leitner</p> <p>2 you will get a different outcome.</p> <p>3 Q. You just don't know one way or the</p> <p>4 other whether or not there would have been any</p> <p>5 margin left over by the liquidation by the OCC</p> <p>6 of Lehman's positions, correct?</p> <p>7 A. The point is that on Monday and</p> <p>8 Tuesday of that week, nobody knew. What they</p> <p>9 did know is that the risks existed.</p> <p>10 Q. Can you tell me, sir, going back to</p> <p>11 your rational purchaser example -- actually, to</p> <p>12 take a rational seller example, why would a</p> <p>13 rational seller of Lehman's positions and margin</p> <p>14 at the OCC prefer to give that margin to</p> <p>15 Barclays, including up to \$700 million of excess</p> <p>16 margin, rather than take the chance that, after</p> <p>17 an OCC liquidation, there would be excess margin</p> <p>18 to return to the estate?</p> <p>19 A. You're assuming that on Monday and</p> <p>20 Tuesday of that week that Lehman would have</p> <p>21 known those numbers and known those factors.</p> <p>22 They didn't know them. The question was</p> <p>23 whether, given the knowledge that Lehman had and</p> <p>24 that Barclays had prior to the execution of the</p> <p>25 Asset Purchase Agreement, what motivated them to</p>
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<p>1 A. Leitner</p> <p>2 do the transaction.</p> <p>3 My conclusion was that a person in</p> <p>4 Lehman's position, thinking of the derivatives</p> <p>5 book and knowing the issues -- and I'm, by the</p> <p>6 way, assuming that Lehman had certainly</p> <p>7 knowledge of -- more knowledge than Barclays had</p> <p>8 about the risks inherent in having to carry the</p> <p>9 positions of the affiliates and so forth and the</p> <p>10 ability to get rid of those risks and move them</p> <p>11 over to Barclays, that they would have been well</p> <p>12 motivated for all the reasons I stated to get</p> <p>13 rid of it and to do so with the margin moving</p> <p>14 over.</p> <p>15 Q. Do you agree, sir, that if Lehman had</p> <p>16 not agreed to transfer the exchange-traded</p> <p>17 derivatives business to Barclays, in the event</p> <p>18 of the OCC's liquidation of its positions, it</p> <p>19 would have been rational for Lehman to prefer to</p> <p>20 have the OCC close out its positions in the</p> <p>21 expectation that some of that margin posted at</p> <p>22 the OCC would have been returned to Lehman?</p> <p>23 MS. BLOOMER: Object to the form of</p> <p>24 the question.</p> <p>25 To prefer it to what, Neil?</p>	<p>1 A. Leitner</p> <p>2 MR. OXFORD: To prefer it to a</p> <p>3 transfer to Barclays.</p> <p>4 A. Again, on Monday and Tuesday of that</p> <p>5 week, the entire discussion, as I understand it</p> <p>6 and have stated in my report, is based on a sale</p> <p>7 of businesses that included this exchange-traded</p> <p>8 derivatives clearing operation, and I believe</p> <p>9 that LBI was appropriately highly motivated to</p> <p>10 move all of the risks of that business.</p> <p>11 And you are now doing what we did</p> <p>12 earlier in this deposition in which you're</p> <p>13 asking for a hypothetical on a subset of the</p> <p>14 risks that would evolve in the business deal.</p> <p>15 And frankly, I refuse to go there because I</p> <p>16 don't believe that that's relevant to my report.</p> <p>17 And so dealing with hypotheticals that have to</p> <p>18 do with something that was never on the table</p> <p>19 and the parties never considered doesn't seem to</p> <p>20 me to advance the ball.</p> <p>21 You know, would have, could have,</p> <p>22 should have could be asked throughout this</p> <p>23 transaction when, you know, under the unique set</p> <p>24 of pressures that everybody was under, this was</p> <p>25 the way to get the deal done.</p>

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<p>1 A. Leitner</p> <p>2 Q. Are you familiar at all, sir, with the</p> <p>3 S.E.C.'s Customer Protection Rules?</p> <p>4 A. In a general way, I am.</p> <p>5 Q. Do you understand that margin that's</p> <p>6 posted at the OCC for customer positions is a</p> <p>7 debit in the customer protection formula, the</p> <p>8 S.E.C. Rule 15c3 formula?</p> <p>9 MS. BLOOMER: Objection. Beyond the</p> <p>10 scope of his opinion and expertise.</p> <p>11 A. I'm aware that it is, yes.</p> <p>12 Q. I'd like you to assume that Lehman had</p> <p>13 a \$507 million debit in its 15c3 calculation as</p> <p>14 of September 19 and that debit relates to the</p> <p>15 margin that it had posted at the OCC for its</p> <p>16 customer business. You with me so far?</p> <p>17 A. Okay. What day?</p> <p>18 Q. September 19.</p> <p>19 A. Okay.</p> <p>20 Q. And I'd also like you to assume for me</p> <p>21 that if it did not have that debit, there would</p> <p>22 be a shortfall in the customer reserve fund.</p> <p>23 With me so far?</p> <p>24 A. Sort of.</p> <p>25 Q. Do you agree that if that margin, sir,</p>	<p>1 A. Leitner</p> <p>2 that \$507 million for which Lehman placed a</p> <p>3 debit in the customer reserve formula, if that</p> <p>4 \$507 million was sold to Barclays for its own</p> <p>5 account, there would be a deficit in Lehman's</p> <p>6 15c3 reserve fund?</p> <p>7 MS. BLOOMER: I object to the form of</p> <p>8 the question, to the factual basis for the</p> <p>9 assumptions, and to the vagueness of the</p> <p>10 timeframe that you're asking about.</p> <p>11 A. The answer is I can't answer that</p> <p>12 because you haven't given me enough facts</p> <p>13 because the customer reserve formula is based</p> <p>14 upon all the position you have for customers,</p> <p>15 and my question is where did the customers go.</p> <p>16 So I have to find out where the credits are.</p> <p>17 If you transfer the customer accounts,</p> <p>18 then you've transferred the credits. So the</p> <p>19 actual reserve formula is subject to a</p> <p>20 recalculation at some point. What I do is call</p> <p>21 Mike Macchiaroli and say what should I do.</p> <p>22 MR. OXFORD: Can we go off for a</p> <p>23 second?</p> <p>24 (Pause in the proceedings.)</p> <p>25 A. Just, if I could for the record, I've</p>
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<p>1 A. Leitner</p> <p>2 known Mike Macchiaroli for a long time and so</p> <p>3 I've discussed a lot of issues with him, so my</p> <p>4 remark was a facetious remark.</p> <p>5 I mean, I know this was a complicated</p> <p>6 matter in which the S.E.C. was all over it, but,</p> <p>7 you know, I don't pretend to be an expert in the</p> <p>8 formula. I know a little bit more about custody</p> <p>9 and control than I do about the formula. I know</p> <p>10 enough to know I've got to ask my former</p> <p>11 colleague at Goldman, who's the real expert.</p> <p>12 Q. Could you turn to paragraph 94 of your</p> <p>13 report, sir.</p> <p>14 Do you have it there, sir?</p> <p>15 A. Yes, sir.</p> <p>16 Q. You see, "With respect to posted</p> <p>17 collateral, under normal circumstances, a buyer</p> <p>18 and seller would have reached an agreement about</p> <p>19 whether the transfer of ETDs would come with or</p> <p>20 without the related collateral." Do you see</p> <p>21 that, sir?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Can you give me some examples of</p> <p>24 business deals you are familiar with in which</p> <p>25 the transfer of exchange-traded derivatives came</p>	<p>1 A. Leitner</p> <p>2 without the related collateral?</p> <p>3 A. First of all, this situation is so</p> <p>4 unique. The answer would be that all the</p> <p>5 situations that I'm aware of were done in the</p> <p>6 normal course of acquiring the company and,</p> <p>7 therefore, all of its assets including all of</p> <p>8 the collateral securing its position.</p> <p>9 So, you know, normally when you buy a</p> <p>10 business, you buy all of the assets supporting</p> <p>11 that business through an acquisition of stock.</p> <p>12 This transaction was extraordinarily complicated</p> <p>13 because it was -- of its being structured as an</p> <p>14 asset purchase and liability assumption.</p> <p>15 I mean, that was the whole purpose of</p> <p>16 my report, was to say how complicated it is, and</p> <p>17 although we are focusing on paragraph 94, I</p> <p>18 would just want to, you know, note for the</p> <p>19 record that my discussion of the unusual</p> <p>20 circumstances of this case and sort of normal</p> <p>21 ways you would do this begins on paragraph 91.</p> <p>22 Q. Okay. With that narrative, sir, can</p> <p>23 you answer my question?</p> <p>24 A. You have to read the question again.</p> <p>25 (Record read.)</p>

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<p>1 A. Leitner</p> <p>2 A. No, I do not know of any business</p> <p>3 deals where they did not come without the</p> <p>4 related collateral.</p> <p>5 Q. And in the business deals where the</p> <p>6 exchange-traded derivatives came with the</p> <p>7 related collateral, sir, how was that collateral</p> <p>8 valued?</p> <p>9 MS. BLOOMER: Objection to the form.</p> <p>10 A. In the cases I'm familiar with, the</p> <p>11 collateral was not separately valued. The</p> <p>12 business as a whole was valued and there was a</p> <p>13 consideration given for the acquisition of the</p> <p>14 business. Easy to do in an ongoing concern</p> <p>15 case.</p> <p>16 Q. I understand your point, sir.</p> <p>17 In the transaction that you are</p> <p>18 familiar with where the collateral was valued as</p> <p>19 part of the business as a whole, is that</p> <p>20 collateral valued typically dollar for dollar?</p> <p>21 MS. BLOOMER: Objection to the form of</p> <p>22 the question and to the characterization of</p> <p>23 his testimony.</p> <p>24 A. I don't know the answer to that</p> <p>25 question. I'm not trying to be vague here, but</p>	<p>1 A. Leitner</p> <p>2 as I've stated in the report, for a firm that's</p> <p>3 anywhere like Lehman, you are starting with a</p> <p>4 whole book of business, long and short -- again,</p> <p>5 just talking about the equity business -- long</p> <p>6 and short equity business, all of the trading</p> <p>7 that they do, market-making and so forth, you've</p> <p>8 got all these businesses and you've got</p> <p>9 exchange-traded derivatives, and you've got the</p> <p>10 collateral supporting those businesses, and that</p> <p>11 total book, including the capital and the</p> <p>12 liquidity and related costs of maintaining that</p> <p>13 collateral position, has a cost and a value.</p> <p>14 And so the assessment about, quote,</p> <p>15 what it's worth is based on, you know, numerous</p> <p>16 factors because it may be the case that</p> <p>17 collateral is provided by letters of credit or</p> <p>18 by assets you might have hanging around or</p> <p>19 assets that you've brought in through borrowing.</p> <p>20 So it is not just simple to say</p> <p>21 whether the collateral is just assets free and</p> <p>22 clear. The fact is that collateral are not free</p> <p>23 and clear assets once they're posted as</p> <p>24 collateral.</p> <p>25 Q. Do you know, sir, why Barclays wanted</p>
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<p>1 A. Leitner</p> <p>2 to buy Lehman's derivatives positions?</p> <p>3 MS. BLOOMER: Objection. Assumes</p> <p>4 facts not in evidence.</p> <p>5 A. No, I don't know specifically why,</p> <p>6 other than, again, as I state in my report, if</p> <p>7 they were buying the businesses, the capability</p> <p>8 and the exchange-traded derivatives were an</p> <p>9 integral part of all of the businesses that they</p> <p>10 were buying, the FCM business and the capital</p> <p>11 markets business.</p> <p>12 For them to be intermediaries in the</p> <p>13 capital market business, they would have needed</p> <p>14 to have and maintain exchange-traded</p> <p>15 derivatives, so they were integrally related to</p> <p>16 these other businesses.</p> <p>17 MR. OXFORD: Can we go off the record</p> <p>18 and take another short break? I think we</p> <p>19 may be close to finishing up.</p> <p>20 MS. BLOOMER: Sure.</p> <p>21 (Recess; Time Noted: 4:45 P.M.)</p> <p>22 (Time Noted: 4:51 P.M.)</p> <p>23 BY MR. OXFORD:</p> <p>24 Q. Mr. Leitner, I'm handing you what is a</p> <p>25 complete copy of the document that was</p>	<p>1 A. Leitner</p> <p>2 previously marked at a deposition as Exhibit</p> <p>3 554.</p> <p>4 I handed you an excerpt before and</p> <p>5 said I would get you the full copy, so now I've</p> <p>6 handed you the full copy.</p> <p>7 A. Great. As long as I don't have to</p> <p>8 take it with me.</p> <p>9 Q. I'll leave that between you and your</p> <p>10 counsel.</p> <p>11 MS. BLOOMER: I hope I don't have to</p> <p>12 take it with me either.</p> <p>13 Q. Are you able to tell me, sir, now that</p> <p>14 you have the full document, whether that is the</p> <p>15 document you reference in page 91 of your</p> <p>16 report -- sorry, paragraph 91 of your report?</p> <p>17 MS. BLOOMER: Is this the first or the</p> <p>18 second of the two e-mails that had a list of</p> <p>19 options positions? Because I just don't</p> <p>20 want him to be confused. There were two</p> <p>21 different sets of lists that went on the</p> <p>22 same day at about the same time.</p> <p>23 MR. OXFORD: This I believe is the</p> <p>24 first, based on the time stamp.</p> <p>25 A. Okay. Yes, it is.</p>

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<p>1 A. Leitner</p> <p>2 Q. Do you agree, sir, that this</p> <p>3 information would have been important for</p> <p>4 Barclays to have to enable it to assess the</p> <p>5 risks it was facing in acquiring Lehman's</p> <p>6 derivatives portfolio?</p> <p>7 MS. BLOOMER: Objection. Asked and</p> <p>8 answered, I believe.</p> <p>9 A. It would have been nice for them to</p> <p>10 have it before they signed the APA.</p> <p>11 Q. My question is a little different,</p> <p>12 though, with respect, sir. My question is would</p> <p>13 it have been important for Barclays to have this</p> <p>14 document to enable it to assess the risks it was</p> <p>15 facing in acquiring Lehman's derivatives</p> <p>16 portfolio?</p> <p>17 A. Yes, it would have been important to</p> <p>18 help them assess the risks.</p> <p>19 Q. And you don't know, sir, whether or</p> <p>20 not Barclays asked for this document or</p> <p>21 information to be produced to them prior to the</p> <p>22 afternoon of Friday, September 19?</p> <p>23 A. No, I do not.</p> <p>24 Q. Are you able to tell me, sir, by</p> <p>25 reviewing this document, whether it contains</p>	<p>1 A. Leitner</p> <p>2 information on exchange-traded derivatives only</p> <p>3 or also over-the-counter derivatives?</p> <p>4 A. I have not examined the document for</p> <p>5 that purpose, so I couldn't tell you.</p> <p>6 Q. Can you take a moment to tell me</p> <p>7 whether you're able to answer that question?</p> <p>8 Obviously I'm not expecting you to read every</p> <p>9 single line of 760 pages, but --</p> <p>10 MS. BLOOMER: I'm going to object to</p> <p>11 the form of the question.</p> <p>12 A. Since this document is not identified</p> <p>13 as an OCC report that is one generated from the</p> <p>14 Options Clearing Corp. related solely to its</p> <p>15 positions, and because there are not identifiers</p> <p>16 for the options with which I would be familiar</p> <p>17 with, which is either the option identifier,</p> <p>18 Cusip number, or the like, I actually can't -- I</p> <p>19 can't make that distinction.</p> <p>20 Q. Okay. Do you, on the last page, have</p> <p>21 a subtotal and a total?</p> <p>22 A. Yes, okay, subtotal and total.</p> <p>23 Q. And between the lines of "Subtotal"</p> <p>24 and "Total," do you have a line that reads "OCC</p> <p>25 Options Netting"?</p>
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<p>1 A. Leitner</p> <p>2 A. Yes.</p> <p>3 Q. Does that suggest to you, sir, that</p> <p>4 this report includes only exchange-traded</p> <p>5 derivatives at the Options Clearing Corporation?</p> <p>6 A. Without more information, it doesn't</p> <p>7 suggest anything to me. I've made no judgment</p> <p>8 about what this would mean, and in any case,</p> <p>9 these guys got it apparently on Friday after the</p> <p>10 deal had already been struck on</p> <p>11 Tuesday/Wednesday.</p> <p>12 Q. Do you know which computer system this</p> <p>13 is generated from?</p> <p>14 A. No, I don't.</p> <p>15 Q. And do you have any information, sir,</p> <p>16 about source data or data feed for the system</p> <p>17 that generated this report, sir?</p> <p>18 A. I -- I'm not sure I've ever known</p> <p>19 where this came from. If I knew, I've</p> <p>20 forgotten.</p> <p>21 (Exhibit 657, a document bearing Bates</p> <p>22 Nos. BCI-EX-(S)-00075257 with attachment,</p> <p>23 marked for identification, as of this date.)</p> <p>24 Q. Handing you, Mr. Leitner, another</p> <p>25 weighty document that I've marked as Exhibit</p>	<p>1 A. Leitner</p> <p>2 657, sir. You see that the e-mail has the Bates</p> <p>3 number BCI-EX-(S)-00075257, you see that, sir?</p> <p>4 A. Yes.</p> <p>5 Q. Does that help you answer my question</p> <p>6 as to whether or not this is the document, the</p> <p>7 second document referenced in paragraph 91 of</p> <p>8 your report?</p> <p>9 A. I'm sorry, the second document?</p> <p>10 Q. Yes. You referenced two documents in</p> <p>11 paragraph 91, sir. I'm asking you if that's the</p> <p>12 second document.</p> <p>13 A. Yes.</p> <p>14 Q. It appears, sir, to be in similar form</p> <p>15 to the last exhibit we looked at, is that</p> <p>16 correct?</p> <p>17 A. I'm sorry?</p> <p>18 Q. It appears to be a document in similar</p> <p>19 form to the document we just looked at, the</p> <p>20 exhibit we just looked at?</p> <p>21 MS. BLOOMER: Objection to the form of</p> <p>22 the question.</p> <p>23 A. Well, it is formatted differently and</p> <p>24 it has different data. I also note that the --</p> <p>25 both documents contain a reference to what looks</p>

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<p>1 A. Leitner</p> <p>2 to be like an internal Lehman Brothers business</p> <p>3 unit or division responsible for the maintenance</p> <p>4 of the positions, for example, Equity</p> <p>5 Strategies, Liquid Market Americas, and the</p> <p>6 like.</p> <p>7 So I guess I would amend my prior</p> <p>8 statement to say that this was not a -- these</p> <p>9 documents are not OCC-generated, but are,</p> <p>10 rather, internally generated documents by Lehman</p> <p>11 Brothers, because there is no way that OCC would</p> <p>12 know which internal profit center was</p> <p>13 responsible for these positions.</p> <p>14 Q. On the first page of the attachment,</p> <p>15 sir, do you see that there is a heading that</p> <p>16 reads "Long Options"?</p> <p>17 A. Which attachment?</p> <p>18 Q. The --</p> <p>19 A. The second one?</p> <p>20 Q. Yes, Exhibit --</p> <p>21 A. The one 657?</p> <p>22 Q. 657, the one I just handed you.</p> <p>23 MS. BLOOMER: Can you repeat the</p> <p>24 question?</p> <p>25 MR. OXFORD: Sure.</p>	<p>1 A. Leitner</p> <p>2 Q. Do you see there's a heading entitled</p> <p>3 "Long Options"?</p> <p>4 A. Yes.</p> <p>5 Q. And at the bottom of that page headed</p> <p>6 "Long Options," there's a total, sir?</p> <p>7 A. Yes.</p> <p>8 Q. And the total of long options on this</p> <p>9 report is approximately \$2.9 billion, do you see</p> <p>10 that, sir?</p> <p>11 MS. BLOOMER: Objection to the form of</p> <p>12 the question. Mischaracterizes the</p> <p>13 document. I don't think I see a dollar sign</p> <p>14 anywhere.</p> <p>15 A. Well, there's a number 2.9 million and</p> <p>16 it says "total," but I don't know what's the</p> <p>17 total of what. If it's subtotal minus OCC</p> <p>18 option netting and then total, but I have no</p> <p>19 idea what the OCC option netting means, nor is</p> <p>20 it clear whether this report speaks of -- what</p> <p>21 date it speaks of, whether it was a report</p> <p>22 produced as all the options at the close of</p> <p>23 business on the 19th --</p> <p>24 Q. Well, sir, I don't mean to interrupt</p> <p>25 you, but perhaps --</p>
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<p>1 A. Leitner</p> <p>2 MS. BLOOMER: You shouldn't interrupt</p> <p>3 him. Let him finish his answer.</p> <p>4 Q. If you look at the e-mail, sir, it'll</p> <p>5 answer that question.</p> <p>6 A. Oh, "9/18 close." Okay, so --</p> <p>7 Q. Okay. So if you turn your attention</p> <p>8 to the e-mail, then I think we can get out of</p> <p>9 here.</p> <p>10 A. Okay.</p> <p>11 Q. You see that the bottom e-mail</p> <p>12 Christopher Mincak sends to you, Stephen King</p> <p>13 and others at Barclays on September 19 at 4:45</p> <p>14 P.M.?</p> <p>15 A. Yes, sir.</p> <p>16 Q. You see that? "Net long options.</p> <p>17 Attached are the options. Awaiting the risk</p> <p>18 report from Risk. Chris." Do you see that,</p> <p>19 sir?</p> <p>20 A. Yes.</p> <p>21 Q. Does that appear to be Exhibit 556</p> <p>22 which we marked earlier in the deposition and I</p> <p>23 have now given you the full 760-page --</p> <p>24 MS. BLOOMER: I think we need to ask</p> <p>25 the question again. That was very -- I</p>	<p>1 A. Leitner</p> <p>2 don't even understand what you're asking.</p> <p>3 MR. OXFORD: You know what, it doesn't</p> <p>4 matter.</p> <p>5 Q. Do you see the top of the e-mail, sir?</p> <p>6 And again, I'm looking at 657, sir.</p> <p>7 A. Yes, sir.</p> <p>8 Q. Mr. Mincak writes to Mr. Yang, Mr.</p> <p>9 King and others at Barclays, "As included short</p> <p>10 options, long/shorts as of yesterday's close,</p> <p>11 9/18"?</p> <p>12 A. Yes.</p> <p>13 Q. Do you see that, sir?</p> <p>14 A. Yes.</p> <p>15 Q. Again, would this information</p> <p>16 contained in this report have been useful to</p> <p>17 Barclays in assessing the risk attendant in</p> <p>18 assuming responsibility for Lehman's</p> <p>19 exchange-traded derivatives positions?</p> <p>20 MS. BLOOMER: Objection. Vague and</p> <p>21 ambiguous.</p> <p>22 A. The answer is I don't know how useful</p> <p>23 it would have been. Better than nothing, but I</p> <p>24 don't -- I can't say anything beyond that</p> <p>25 because it's already a day old. You don't know</p>

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1 A. Leitner
2 how many of the positions may have changed over
3 the day, and they may have been significant
4 positions that changed over the day. And most
5 importantly, you don't know at this point
6 exactly which options that are still on the
7 books are going to now be in the money and
8 exercised the next day.
9 So, in order to do a kind of full
10 analysis of where you're going to be at the
11 opening of business Monday is going to take the
12 whole weekend to figure this out. None of this
13 information was known on Tuesday when these guys
14 agreed to do this deal.
15 So the fact that they got it by the
16 weekend is good, but there's very little, I
17 believe, that Barclays could have done with this
18 other than to say, oh, we've got some gross
19 numbers here, we seem to be this amount short,
20 this amount long, maybe we should sell some S&P
21 puts or something or buy something.
22 And I don't know, you know, what they
23 would have done with this other than also with
24 the operations people for them to start figuring
25 out how are we going to get these on our books.

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1 A. Leitner
2 they actually signed the deal.
3 MR. OXFORD: Mr. Leitner, I don't
4 think I have any further questions for you
5 at this time.
6 THE WITNESS: Thank you for your
7 courtesies and thanks very much for lunch.
8 (Continued on the next page to include
9 the jurat.)
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1 A. Leitner
2 So from the operations point of view,
3 you know, it would be very useful because they
4 now have an idea of the size of the positions
5 that they have to convert to their own books and
6 records and to try to figure out how to do that.
7 For the risk managers I think it would
8 be been useful, but less useful.
9 Q. And for the risk managers, Mr.
10 Leitner, would it be more useful if Barclays had
11 had this information earlier in the week,
12 correct?
13 A. Absolutely.
14 MS. BLOOMER: Object to the form of
15 the question.
16 A. Yes, it would have been useful for
17 them to have it earlier in the week, and it
18 would have been -- but the deal was already
19 done. I mean, I don't know when you mean
20 "earlier in the week," but the deal was struck
21 on Tuesday and signed Wednesday. That was the
22 sequence of events, and so your, as far as I'm
23 aware, there was very little information known
24 other than that they were acquiring the books
25 and in some kind of general size at the time

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1 A. Leitner
2 MR. DAKIS: In the interest of time,
3 the Committee has no questions. However, to
4 the extent the deposition is reopened or
5 continued for any reason, we reserve our
6 right to ask questions at that time.
7 MS. CARRERO: The estate has no
8 questions either.
9 MS. BLOOMER: Thank you.
10 MR. OXFORD: Thank you for your
11 courtesy, sir.
12 (Time noted: 5:08 P.M.)
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ANTHONY J. LEITNER

Subscribed and sworn to
before me this day
of 2010.

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A. Leitner
CERTIFICATE
STATE OF NEW YORK)
: ss

COUNTY OF NEW YORK)

I, Kathy S. Klepfer, a Registered
Merit Reporter and Notary Public within and
for the State of New York, do hereby
certify:

That ANTHONY J. LEITNER, the witness
whose deposition is herein before set forth,
was duly sworn by me and that such
deposition is a true record of the testimony
given by such witness.

I further certify that I am not
related to any of the parties to this action
by blood or marriage and that I am in no way
interested in the outcome of this matter.

I further certify that neither the
deponent nor a party requested a review of
the transcript pursuant to Federal Rule of
Civil Procedure 30(e) before the deposition
was completed.

In witness whereof, I have hereunto
set my hand this 25th day of February, 2010.

A. Leitner
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A. Leitner
NAME OF CASE: In re: Lehman Brothers
DATE OF DEPOSITION: February 25, 2010
NAME OF WITNESS: Anthony J. Leitner
Reason Codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

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EXHIBIT I

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Sent: Fri 9/19/2008 4:45:22 PM
Subject: Net Long Options - 9/18
Categories: um:content-classes:message

Top Derivs by Position 091808 copy.zip

Attached are the options. Awaiting the risk report from Risk.

Chris



MOVANTS' TRIAL
EXHIBIT

504

	A	B	C	D	E	F
1	LB1					
2	Pre Netted Options					
3	9/18					
4						
5						
6		Options				
7	Product Name	Long	Division	BPM Level 0	ISIN	Px
8	MORTGAGE TBA'S - a/c 11083	1,363,227,177				
9	F/X Forwards LBI a/c 11083-00004	900,700,624				
10	PUT S&P 500 INDX DEC 1425CBOE	432,192,225	SUM-EQUITIES	LIQUID MARKETS AMERICAS		220.45
11	PUT S&P 500 INDX DEC 1400CBOE	152,489,600	SUM-EQUITIES	LIQUID MARKETS AMERICAS		197.60
12	PUT S&P 500 INDX SEP 1375CBOE	143,650,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		176.80
13	PUT S&P 500 INDX MAR 1300CBOELONG TERM OPTIONS EXP 03/21/09	129,577,500	SUM-EQUITIES	LIQUID MARKETS AMERICAS		132.90
14	PUT S&P 500 INDX JUN 1250CBOE	102,850,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		121.00
15	PUT S&P 500 INDX DEC 1500CBOELONG TERM OPTIONS EXP 12/19/09	82,134,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		304.20
16	PUT S&P 500 INDX DEC 1350CBOE	63,996,076	SUM-EQUITIES	LIQUID MARKETS AMERICAS		155.60
17	DPL INC WTS \$21.00 EXP 3-13-12RESTRICTED	62,966,421	SUM-EQUITIES	VOLATILITY AMERICAS		5.25
18	PUT S&P 500 INDX JUN 1325CBOE	61,200,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		163.20
19	PUT S&P 500 INDX DEC 1350CBOE	48,247,178	SUM-EQUITIES	EQUITY STRATEGIES		153.80
20	PUT ISHARES TR NOV 126 ****ADJ 3 FOR 1 STOCK SPLIT DEL: 300 SHS OF FXI	46,313,890	SUM-EQUITIES	LIQUID MARKETS AMERICAS		23.15
21	PUT S&P 500 INDX SEP 1275CBOE	45,619,200	SUM-EQUITIES	LIQUID MARKETS AMERICAS		76.80
22	PUT S&P 500 INDX SEP 1365CBOE	44,368,800	SUM-EQUITIES	LIQUID MARKETS AMERICAS		166.80
23	PUT S&P 500 INDX MAR 1200CBOELONG TERM OPTIONS EXP 03/21/09	44,036,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		80.80
24	PUT S&P 500 INDX SEP 1325CBOE	41,780,600	SUM-EQUITIES	LIQUID MARKETS AMERICAS		126.80
25	PUT S&P 500 INDX SEP 1350CBOE	40,177,105	SUM-EQUITIES	LIQUID MARKETS AMERICAS		151.80
26	PUT S&P 500 INDX SEP 1335CBOE	33,734,880	SUM-EQUITIES	LIQUID MARKETS AMERICAS		136.80
27	PUT S&P 500 INDX SEP 1425CBOE	30,618,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		226.80
28	PUT S&P 500 INDX OCT 1300CBOE	29,870,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		103.00
29	PUT S&P 500 INDX SEP 1450CBOE	21,730,340	SUM-EQUITIES	LIQUID MARKETS AMERICAS		251.80
30	PUT S&P 500 INDX JUN 1200CBOE	21,538,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		97.90
31	PUT AMER INTL GP JAN 040 ****	21,084,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		37.65
32	PUT S&P 500 INDX MAR 1325CBOELONG TERM OPTIONS EXP 03/21/09	20,846,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		148.90
33	PUT S&P 500 INDX DEC 1350CBOE	20,810,426	SUM-EQUITIES	VOLATILITY EUROPE		154.00
34	PUT S&P 500 INDX MAR 1250CBOELONG TERM OPTIONS EXP 03/21/09	20,338,500	SUM-EQUITIES	LIQUID MARKETS AMERICAS		104.30
35	CALL TARGET CORP JAN 040 ****LONG TERM OPTIONS EXP 01/16/10	18,915,558	SUM-EQUITIES	LIQUID MARKETS AMERICAS		20.68
36	PUT S&P 500 INDX SEP 1290CBOE	18,791,460	SUM-EQUITIES	LIQUID MARKETS AMERICAS		91.80
37	PUT S&P 500 INDX SEP 1255CBOE	18,641,760	SUM-EQUITIES	LIQUID MARKETS AMERICAS		56.80
38	PUT ISH EMG MKT JAN 160 ****ADJ 3 FOR 1 STOCK SPLIT DEL: 300 SHS OF EEM	17,400,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		58.00
39	PUT S&P 500 INDX OCT 1200CBOE	17,182,500	SUM-EQUITIES	LIQUID MARKETS AMERICAS		39.50
40	PUT S&P 500 INDX SEP 1345CBOE	16,162,680	SUM-EQUITIES	LIQUID MARKETS AMERICAS		146.80
41	PUT S&P 500 INDX SEP 1260CBOE	16,152,442	SUM-EQUITIES	LIQUID MARKETS AMERICAS		61.80
42	PUT S&P 500 INDX DEC 1275CBOE	15,500,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		100.00
43	PUT FREEPORT JAN 080 ****	15,379,455	SUM-EQUITIES	LIQUID MARKETS AMERICAS		18.53
44	CALL S&P 500 INDX DEC 1250CBOE	14,663,845	SUM-EQUITIES	LIQUID MARKETS AMERICAS		40.00
45	PUT GENERAL ELEC JAN 025 ****	14,442,570	SUM-EQUITIES	LIQUID MARKETS AMERICAS		2.70
46	CALL GENERAL ELEC JAN 025 ****	14,027,012	SUM-EQUITIES	LIQUID MARKETS AMERICAS		2.29
47	PUT GOLDMAN SACH OCT 160 ****	13,098,363	SUM-EQUITIES	LIQUID MARKETS AMERICAS		52.63
48	PUT CITIGROUP JAN 045 ****	12,956,125	SUM-EQUITIES	LIQUID MARKETS AMERICAS		27.63
49	PUT S&P 500 INDX DEC 1100CBOELONG TERM OPTIONS EXP 12/19/09	12,915,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		86.10
50	***EXPORTFINANS ASA REVERSE EXCHANGEABLE NT LKD APPLE INC COM	12,374,838	SUM-EQUITIES	VOLATILITY AMERICAS	US2826455899	155.38
51	PUT ISH EMG MKT DEC 155 ****ADJ 3 FOR 1 STOCK SPLIT DEL: 300 SHS OF EEM	12,011,750	SUM-EQUITIES	LIQUID MARKETS AMERICAS		52.23
52	PUT ABERCROMBIE& JAN 060 ****	11,581,218	SUM-EQUITIES	LIQUID MARKETS AMERICAS		16.90
53	PUT AMER INTL GP SEP 017 ****	11,423,885	SUM-EQUITIES	LIQUID MARKETS AMERICAS		14.58
54	PUT S&P 500 INDX DEC 1250CBOELONG TERM OPTIONS EXP 12/19/09	11,262,000	SUM-EQUITIES	VOLATILITY EUROPE		143.40
55	PUT OIL SVC HLDG SEP 185 ****	11,223,750	SUM-EQUITIES	LIQUID MARKETS AMERICAS		30.75
56	PUT CIA VALE DO SEP 030 ****	10,882,985	SUM-EQUITIES	LIQUID MARKETS AMERICAS		9.48
57	PUT ISHS RUS IND MAR 068 ****	10,856,250	SUM-EQUITIES	LIQUID MARKETS AMERICAS		4.83
58	PUT S&P 500 INDX SEP 1625CBOE	10,670,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		426.80
59	PUT AMER INTL GP OCT 017 ****	10,602,633	SUM-EQUITIES	LIQUID MARKETS AMERICAS		14.58
60	PUT S&P 500 INDX SEP 1475CBOE	10,380,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		276.80
61	PUT PWRSHS QQQ OCT 043 ****	9,858,608	SUM-EQUITIES	LIQUID MARKETS AMERICAS		1.98
62	PUT AMER INTL GP NOV 020 ****	9,767,030	SUM-EQUITIES	LIQUID MARKETS AMERICAS		17.58
63	CALL AMGEN INC OCT 045 ****	9,589,388	SUM-EQUITIES	LIQUID MARKETS AMERICAS		15.38
64	PUT HANSEN NATU SEP 035 CBOE	9,229,080	SUM-EQUITIES	LIQUID MARKETS AMERICAS		8.40
65	PUT S&P 500 INDX OCT 1275CBOE	9,163,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		83.30

INTERMEDIATE PAGES OMITTED DUE TO SIZE

	A	B	C	D	E	F
48556	PUT RUSSELL 2000 SEP 620 CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48557	CALL CBOE MINI-ND SEP187.5CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48558	CALL NASD 100 IND SEP 1825CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48559	CALL S&P 500 INDX SEP 1280CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48560	CALL CBOE MINI-ND SEP177.5CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48561	CALL S&P 500 INDX SEP 1550CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48562	CALL S&P 500 INDX SEP 1300CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48563	CALL S&P 500 INDX SEP 1475CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48564	CALL S&P 500 INDX SEP 1625CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48565	PUT S&P 500 INDX SEP 1150CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48566	CALL S&P 500 INDX SEP 1375CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48567	PUT CBOE MINI-ND SEP 135 CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48568	CALL NYMEX HOLDGS SEP 085 ****ADJ ELECTION MERGER	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48569	CALL KOMAG INC JAN 035 ****LONG TERM OPTIONS EXP 01/17/09	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48570	PUT RUSSELL 2000 SEP 680 CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48571	CALL CBOE MINI-ND SEP 195 CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48572	CALL NASD 100 IND SEP 1850CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48573	PUT S&P 500 INDX SEP 1175CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48574	CALL NYMEX HOLDGS DEC 085 ****ADJ ELECTION MERGER	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48575	CALL S&P 500 INDX SEP 1235CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48576	CALL RUSSELL 2000 SEP 780 CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48577	PUT NYMEX HOLDGS JAN 080 ****ADJ ELECTION MERGER	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48578	CALL CBOE MINI-ND SEP 190 CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48579	PUT RUSSELL 2000 SEP 700 CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48580	PUT NYMEX HOLDGS SEP 085 ****ADJ ELECTION MERGER	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48581	CALL S&P MIDCAP I SEP 810 ****	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48582	PUT CBOE MINI-ND SEP147.5CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48583	CALL INDYMAC BNCP JAN 005 AMEX	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48584	CALL S&P 500 INDX SEP 1390CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48585	PUT NYMEX HOLDGS SEP 075 ****ADJ ELECTION MERGER	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48586	CALL NASD 100 IND SEP 1725CBOE	0	SUM-EQUITIES	LIQUID MARKETS AMERICAS		0.00
48587	CALL CBOE MINI-ND SEP 205 CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48588	PUT NYMEX HOLDGS JAN 080 ****LONG TERM OPTIONS EXP 01/16/10ADJ ELECTION M	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48589	CALL CBOE MINI-ND SEP207.5CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48590	CALL NYMEX HOLDGS SEP 090 ****ADJ ELECTION MERGER	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48591	CALL WCI COMM SEP 2.50PBW	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48592	PUT WCI COMM JAN 7.50PBW	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48593	CALL INDYMAC BNCP JAN17.50AMEX	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48594	PUT KOMAG INC JAN 030 ****LONG TERM OPTIONS EXP 01/17/09	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48595	CALL CBOE MINI-ND SEP197.5CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48596	CALL NYMEX HOLDGS JAN 085 ****ADJ ELECTION MERGER	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48597	CALL NYMEX HOLDGS JAN 090 ****ADJ ELECTION MERGER	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48598	CALL CBOE MINI-ND SEP187.5CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48599	CALL S&P 500 INDX SEP 1240CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48600	CALL S&P 500 INDX SEP 1285CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48601	CALL S&P 500 INDX SEP 1280CBOE	0	SUM-EQUITIES	EQUITY STRATEGIES		0.00
48602	Subtotal	7,965,964,768				
48603	OCC Options Netting	(5,051,098,411)				
48604	Total	2,914,866,357				
48605						

EXHIBIT J

From: Mincak, Christopher
Sent: Fri, 19 Sep 2008 21:41:00 GMT
To: Yang, Jasen: Markets (NYK); King, Stephen: Markets (NYK)
CC: Pearn, Francis J; McInerney, Lily; Shi, Jerry; Reilly, Gerard
Subject: RE: Net Long Options - 9/18

I've included short options, longs/shorts as of yesterday's close, 9/18.

-----Original Message-----

From: Jasen Yang@barclayscapital.com
[mailto:Jasen.Yang@barclayscapital.com]
Sent: Friday, September 19, 2008 5:23 PM
To: Mincak, Christopher; Stephen.King@barclayscapital.com
Cc: Pearn, Francis J; McInerney, Lily; Shi, Jerry; Reilly, Gerard
Subject: RE: Net Long Options - 9/18

is there a short options book as well?

these are current as of yesterday's close?

thanks,

jasen

-----Original Message-----

From: Mincak, Christopher [mailto:christopher.mincak@lehman.com]
Sent: Friday, September 19, 2008 4:45 PM
To: King, Stephen: Markets (NYK); Yang, Jasen: Markets (NYK)
Cc: Pearn, Francis J; McInerney, Lily; Shi, Jerry; Reilly, Gerard
Subject: Net Long Options - 9/18

Attached are the options. Awaiting the risk report from Risk.

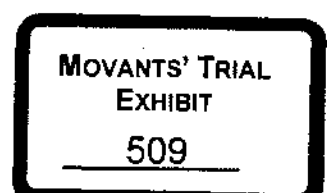
Chris

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BCI-EX-(S)-00075257



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LONG OPTIONS

Product Name	Long	Division	BPM Level 0	ISIN	Px
MORTGAGE TBA'S - a/c 11083	1,363,227,177	SUM-FIXED INCOME	GLOBAL RATES		
F/X Forwards LBI a/c 11083-00004	900,700,624	SUM-FIXED INCOME	FOREIGN EXCHANGE		
PUT S&P 500 INDX DEC 1425CBOE	432,192,225	SUM-EQUITIES	LIQUID MARKETS AMERICAS		220.45
PUT S&P 500 INDX DEC 1400CBOE	152,489,600	SUM-EQUITIES	LIQUID MARKETS AMERICAS		197.60
PUT S&P 500 INDX SEP 1375CBOE	143,650,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		176.80
PUT S&P 500 INDX MAR 1300CBOELONG TERM OPTIONS EXP 03/21/09	129,577,500	SUM-EQUITIES	LIQUID MARKETS AMERICAS		132.90
PUT S&P 500 INDX JUN 1250CBOE	102,850,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		121.00
PUT S&P 500 INDX DEC 1500CBOELONG TERM OPTIONS EXP 12/19/09	82,134,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		304.20
PUT S&P 500 INDX DEC 1350CBOE	63,996,076	SUM-EQUITIES	LIQUID MARKETS AMERICAS		155.60
DPL INC WTS \$21.00 EXP 3-13-12RESTRICTED	62,956,421	SUM-EQUITIES	VOLATILITY AMERICAS		5.25
PUT S&P 500 INDX JUN 1325CBOE	61,200,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		163.20
PUT S&P 500 INDX DEC 1350CBOE	48,247,178	SUM-EQUITIES	EQUITY STRATEGIES		153.80
PUT ISHARES TR NOV 125 ****ADJ 3 FOR 1 STOCK SPLIT DEL: 300 SHS OF FXI	46,313,890	SUM-EQUITIES	LIQUID MARKETS AMERICAS		23.15
PUT S&P 500 INDX SEP 1275CBOE	45,619,200	SUM-EQUITIES	LIQUID MARKETS AMERICAS		76.80
PUT S&P 500 INDX SEP 1365CBOE	44,368,800	SUM-EQUITIES	LIQUID MARKETS AMERICAS		166.80
PUT S&P 500 INDX MAR 1200CBOELONG TERM OPTIONS EXP 03/21/09	44,036,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		80.80
PUT S&P 500 INDX SEP 1325CBOE	41,780,600	SUM-EQUITIES	LIQUID MARKETS AMERICAS		126.80
PUT S&P 500 INDX SEP 1250CBOE	40,177,105	SUM-EQUITIES	LIQUID MARKETS AMERICAS		151.80
PUT S&P 500 INDX SEP 1335CBOE	33,734,880	SUM-EQUITIES	LIQUID MARKETS AMERICAS		136.80
PUT S&P 500 INDX SEP 1425CBOE	30,618,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		226.80
PUT S&P 500 INDX OCT 1300CBOE	29,870,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		103.00
PUT S&P 500 INDX SEP 1450CBOE	21,730,340	SUM-EQUITIES	LIQUID MARKETS AMERICAS		251.90
PUT S&P 500 INDX JUN 1200CBOE	21,538,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		97.90
PUT AMER INTL GP JAN 040 ****	21,084,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		37.65
PUT S&P 500 INDX MAR 1325CBOELONG TERM OPTIONS EXP 03/21/09	20,846,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		148.90
PUT S&P 500 INDX DEC 1350CBOE	20,810,426	SUM-EQUITIES	VOLATILITY EUROPE		154.00
PUT S&P 500 INDX MAR 1250CBOELONG TERM OPTIONS EXP 03/21/09	20,338,500	SUM-EQUITIES	LIQUID MARKETS AMERICAS		104.30
CALL TARGET CORP JAN 040 ****LONG TERM OPTIONS EXP 01/16/10	18,915,558	SUM-EQUITIES	LIQUID MARKETS AMERICAS		20.68
PUT S&P 500 INDX SEP 1290CBOE	18,781,460	SUM-EQUITIES	LIQUID MARKETS AMERICAS		91.80
PUT S&P 500 INDX SEP 1255CBOE	18,641,760	SUM-EQUITIES	LIQUID MARKETS AMERICAS		56.80
PUT ISH EMG MKT JAN 180 ****ADJ 3 FOR 1 STOCK SPLIT DEL: 300 SHS OF EEM	17,400,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		58.00
PUT S&P 500 INDX OCT 1200CBOE	17,182,500	SUM-EQUITIES	LIQUID MARKETS AMERICAS		39.50
PUT S&P 500 INDX SEP 1345CBOE	16,162,680	SUM-EQUITIES	LIQUID MARKETS AMERICAS		149.80
PUT S&P 500 INDX SEP 1260CBOE	16,152,442	SUM-EQUITIES	LIQUID MARKETS AMERICAS		61.80
PUT S&P 500 INDX DEC 1275CBOE	15,500,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		100.00
PUT FREEPORT JAN 080 ****	15,379,456	SUM-EQUITIES	LIQUID MARKETS AMERICAS		18.53
CALL S&P 500 INDX DEC 1250CBOE	14,603,845	SUM-EQUITIES	LIQUID MARKETS AMERICAS		40.00
PUT GENERAL ELEC JAN 025 ****	14,442,570	SUM-EQUITIES	LIQUID MARKETS AMERICAS		2.70
CALL GENERAL ELEC JAN 025 ****	14,027,012	SUM-EQUITIES	LIQUID MARKETS AMERICAS		2.29
PUT GOLDMAN SACH OCT 160 ****	13,098,363	SUM-EQUITIES	LIQUID MARKETS AMERICAS		52.63
PUT CITIGROUP JAN 045 ****	12,956,125	SUM-EQUITIES	LIQUID MARKETS AMERICAS		27.63
PUT S&P 500 INDX DEC 1100CBOELONG TERM OPTIONS EXP 12/19/09	12,915,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		86.10
***EKSPORTFINANS ASA REVERSE EXCHANGEABLE NT	12,374,838	SUM-EQUITIES	VOLATILITY AMERICAS	US2826455899	155.38
PUT ISH EMG MKT DEC 155 ****ADJ 3 FOR 1 STOCK SPLIT DEL: 300 SHS OF EEM	12,011,750	SUM-EQUITIES	LIQUID MARKETS AMERICAS		52.23
PUT ABERCROMBIE JAN 060 ****	11,581,218	SUM-EQUITIES	LIQUID MARKETS AMERICAS		16.90
PUT AMER INTL GP SEP 017 ****	11,423,885	SUM-EQUITIES	LIQUID MARKETS AMERICAS		14.58
PUT S&P 500 INDX DEC 1250CBOELONG TERM OPTIONS EXP 12/19/09	11,262,000	SUM-EQUITIES	VOLATILITY EUROPE		143.40
PUT OIL SVC HLDG SEP 185 ****	11,223,750	SUM-EQUITIES	LIQUID MARKETS AMERICAS		30.75
PUT CIA VALE DO SEP 030 ****	10,882,985	SUM-EQUITIES	LIQUID MARKETS AMERICAS		9.48
PUT ISHS RUS IND MAR 068 ****	10,856,250	SUM-EQUITIES	LIQUID MARKETS AMERICAS		4.63
PUT S&P 500 INDX SEP 1625CBOE	10,670,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		420.80
PUT AMER INTL GP OCT 017 ****	10,602,633	SUM-EQUITIES	LIQUID MARKETS AMERICAS		14.58
PUT S&P 500 INDX SEP 1475CBOE	10,360,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		276.80
PUT PWRSHS QQQ OCT 043 ****	9,858,808	SUM-EQUITIES	LIQUID MARKETS AMERICAS		1.98
PUT AMER INTL GP NOV 020 ****	9,767,030	SUM-EQUITIES	LIQUID MARKETS AMERICAS		17.58
CALL AMGEN INC OCT 045 ****	9,589,388	SUM-EQUITIES	LIQUID MARKETS AMERICAS		15.38
PUT HANSEN NATU SEP 035 CBOE	9,229,080	SUM-EQUITIES	LIQUID MARKETS AMERICAS		8.40
PUT S&P 500 INDX OCT 1275CBOE	9,163,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		83.30
PUT FANNIE MAE SEP 015 ****	9,058,700	SUM-EQUITIES	LIQUID MARKETS AMERICAS		14.50
PUT ISH EMG MKT DEC 044 CBOE	8,978,275	SUM-EQUITIES	LIQUID MARKETS AMERICAS		9.85
PUT NASD 100 INDX DEC 1875CBOE	8,568,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		190.40
CALL TARGET CORP JAN 050 ****	8,566,095	SUM-EQUITIES	LIQUID MARKETS AMERICAS		8.85
PUT RUSSELL 2000 DEC 700 CBOE	8,383,775	SUM-EQUITIES	LIQUID MARKETS AMERICAS		37.85
PUT APPLE INC OCT 200 ****	8,040,390	SUM-EQUITIES	LIQUID MARKETS AMERICAS		65.90
PUT PFIZER INC JAN 025 ****	7,966,490	SUM-EQUITIES	LIQUID MARKETS AMERICAS		7.30
PUT MERCK & CO JAN 055 ****	7,898,350	SUM-EQUITIES	LIQUID MARKETS AMERICAS		23.50
PUT FINL SECTOR SEP 023 ****	7,835,124	SUM-EQUITIES	LIQUID MARKETS AMERICAS		3.55
PUT S&P 500 INDX SEP 1245CBOE	7,689,240	SUM-EQUITIES	LIQUID MARKETS AMERICAS		46.80
PUT ISHARES BRAZ SEP 090 CBOE	7,591,815	SUM-EQUITIES	LIQUID MARKETS AMERICAS		34.65
PUT BANK OF AMER JAN 47.50****	7,473,255	SUM-EQUITIES	LIQUID MARKETS AMERICAS		16.95
CALL AMGEN INC OCT 42.50****	7,382,848	SUM-EQUITIES	LIQUID MARKETS AMERICAS		17.68
PUT PFIZER INC JAN 020 ****LONG TERM OPTIONS EXP 01/16/10	7,175,318	SUM-EQUITIES	LIQUID MARKETS AMERICAS		4.23
PUT S&P 500 INDX JUN 1350CBOE	7,168,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		179.20
PUT S&P 500 INDX SEP 1350CBOE	7,093,415	SUM-EQUITIES	LIQUID MARKETS AMERICAS		151.80
PUT AMERN FXPRES JAN 060 ****	7,080,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		23.80
GOLD 30YR FHLMC-CALL	6,964,797	SUM-FIXED INCOME	GLOBAL RATES		0.03
PUT CONSTELLATION OCT 080 ****	6,896,880	SUM-EQUITIES	LIQUID MARKETS AMERICAS		55.80
PUT AMYLINPHARMA JAN 030 ****LONG TERM OPTIONS EXP 01/16/10	6,869,500	SUM-EQUITIES	LIQUID MARKETS AMERICAS		13.75
PUT SECTOR ENRGY SEP 088 ****	6,828,410	SUM-EQUITIES	EQUITY STRATEGIES		21.65
PUT GOLDMAN SACH JAN 180 ****	6,682,440	SUM-EQUITIES	EQUITY STRATEGIES		71.70
PUT AMER INTL GP SEP 021 ****	6,452,340	SUM-EQUITIES	LIQUID MARKETS AMERICAS		18.60
PUT S&P 500 INDX DEC 1525CBOE	6,386,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		318.30
PUT S&P 500 INDX OCT 1175CBOE	6,330,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		31.65
CALL S&P 500 INDX JUN 1275CBOE	6,300,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		70.00
PUT FINL SECTOR SEP 028 ****	6,200,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		6.20
PUT RUSSELL 2000 DEC 720 CBOE	6,012,500	SUM-EQUITIES	LIQUID MARKETS AMERICAS		46.25
CALL WAL-MART STR JAN 065 ****LONG TERM OPTIONS EXP 01/16/10	5,952,375	SUM-EQUITIES	LIQUID MARKETS AMERICAS		7.15
CALL RUSSELL 2000 SEP 670 CBOE	5,790,250	SUM-EQUITIES	LIQUID MARKETS AMERICAS		47.50
PUT UTD STS STL SEP 115 ****	5,687,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		21.10
PUT CITIGROUP JAN 32.50****	5,605,463	SUM-EQUITIES	EQUITY STRATEGIES		15.88
PUT ALUMINUM COR JAN 055 CBOE	5,553,500	SUM-EQUITIES	LIQUID MARKETS AMERICAS		38.30
PUT S&P 500 INDX JUN 1275CBOE	5,360,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		134.00
CALL S&P 500 INDX DEC 1700CBOELONG TERM OPTIONS EXP 12/19/09	5,321,250	SUM-EQUITIES	LIQUID MARKETS AMERICAS		5.50
PUT VMWARE INC JAN 080 ****	5,255,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		52.65
PUT S&P 500 INDX SEP 1280CBOE	5,218,840	SUM-EQUITIES	LIQUID MARKETS AMERICAS		81.80
CALL VISA INC JAN 070 ****LONG TERM OPTIONS EXP 01/16/10	5,157,440	SUM-EQUITIES	EQUITY STRATEGIES		14.20
PUT MERRILL LYNCH JAN 045 ****	5,095,550	SUM-EQUITIES	EQUITY STRATEGIES		22.85
CALL S&P 500 INDX MAR 1275CBOELONG TERM OPTIONS EXP 03/21/09	5,090,000	SUM-EQUITIES	LIQUID MARKETS AMERICAS		50.90
PUT SECTOR ENRGY SEP 085 ****	5,089,585	SUM-EQUITIES	EQUITY STRATEGIES		18.65
PUT OIL SVC INDX DEC 340 PBW	5,070,150	SUM-EQUITIES	LIQUID MARKETS AMERICAS		88.95
Subtotal	7,965,964,769				
OGG Options Netting	(6,051,038,411)				
Total	2,914,866,357				

REMAINING PAGES OMITTED DUE TO SIZE

EXHIBIT K

From: wnavin@theocc.com
Sent: Sunday, September 21, 2008 11:05 AM
To: erosen@cgsh.com; jmcDaniel@sidley.com
Subject: Fw: Barclays Capital Inc. Lehman related OCC Settlements

William H. Navin
Executive Vice President and General Counsel
The Options Clearing Corporation
312-322-1817
312-322-1836 (fax)
----- Forwarded by William Navin/TheOCC on 09/21/2008 10:05 AM -----

John Fennell/TheOCC

09/21/2008 10:01 AM

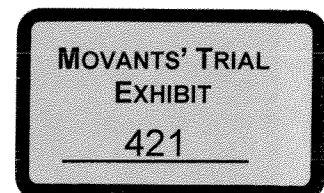
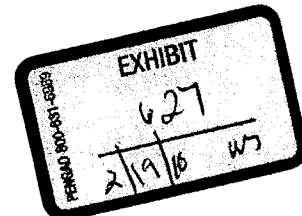
To
vincent.ciaravino@barcap.com, peter.conti@barcap.com, peter.justini@barcap.com
cc
William Navin/TheOCC@TheOCC, Mike Cahill/TheOCC, Joe Wegesin/TheOCC, Mike
Walinskas/TheOCC@TheOCC, Tom Pappageorge/TheOCC@TheOCC, Michael
McClain/TheOCC@TheOCC
Subject
Barclays Capital Inc. Lehman related OCC Settlements

Mr. Ciaravino,

Below are the projected settlements for the former Lehman Brothers Inc. (LBI)
OCC accounts. These collects (i.e. pay from OCC to the clearing member)
include:

#074	Customer	\$	9,693,978.77	collect
#074	Firm	\$	358,905,701.00	collect
#074	Market Maker	\$	0.00	
#084	Customer	\$	16,180.00	collect
#084	Firm	\$	9,173,290.00	collect
#273	Customer	\$	0.00	

These settlement projections are assuming all margin collateral posted by
Lehman Brothers Inc. continues to be part of the account on a going forward
basis or has been replaced with good collateral of equal value. Assuming that
the sale of assets by LBI to Barclays has closed, we expect to settle these
cash movements through Barclays Capital Inc.'s Bank of New York settlement
account (the same ones used for OCC Clearing Member #576) Monday morning unless
we are advised otherwise and able to comply.



If you should have any questions with these settlement amounts or should require additional detailed information please do not hesitate to contact any of the following:

John Fennell 817.562.3593 or 469.235.5522 cell
Joe Wegesin 312.322.4500
Tom Papageorge 312.322.7518

cc: Peter Justini (BCI - Financial Reporting) and Peter Conti (BCI - Operations)

John Fennell
FVP Risk Management &
Treasury Operations
Office: 817.562.3593
Cell: 469.235.5522

EXHIBIT L

From: Pearn, Francis J
Sent: Sun, 21 Sep 2008 20:07:37 GMT
To: Stack, Tim; Futures (NYK)
CC: McInerney, Lily; Jones, Craig L; Dziemian, Daniel
Subject: FW: Net Long Options - 9/18

Tim
Here are the OCC statements for LBI as of 9/22 reflecting our cash and securities collateral held for LBI account 074. Dan and Craig provided these and can answer your questions. WE have a list of option contracts still open that is being prepared for the firm/house and market making accounts that we'll forward to you very shortly. Thanks.
Frank

-----Original Message-----
From: Jones, Craig L
Sent: Sunday, September 21, 2008 2:19 PM
To: Pearn, Francis J; Tennyson, Peter A; Butryn, Kirk; Blackwell, Alastair; Reilly, Gerard; Stucchio, Anthony
Cc: McInerney, Lily
Subject: RE: Net Long Options - 9/18

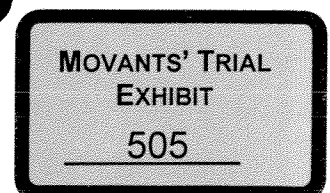
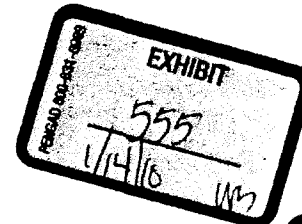
Attached are the current statements for the OCC.

-----Original Message-----
From: Pearn, Francis J
Sent: Sunday, September 21, 2008 1:14 PM
To: Tennyson, Peter A; Jones, Craig L; Butryn, Kirk; Blackwell, Alastair; Reilly, Gerard; Stucchio, Anthony
Cc: McInerney, Lily
Subject: FW: Net Long Options - 9/18

Who can get the OCC information and statement for Friday and determine if these contracts are still outstanding?

-----Original Message-----
From: Tim.Stack@barclayscapital.com
[mailto:Tim.Stack@barclayscapital.com]
Sent: Sunday, September 21, 2008 1:12 PM
To: Pearn, Francis J
Cc: McInerney, Lily; Richard.Konefal@barclayscapital.com;
Liz.James@barclayscapital.com; alexandra.guest@barclayscapital.com
Subject: RE: Net Long Options - 9/18

This is for the futures options contracts that were liquidated as you say on Thursday and will now be flat.



This does not include the OCC exchange positions..ie the VIX futures and all the equity option positions. We need the OCC statement...

-----Original Message-----

From: Pearn, Francis J [<mailto:francis.pearn@lehman.com>]

Sent: Sunday, September 21, 2008 1:05 PM

To: Stack, Tim: Futures (NYK)

Cc: McInerney, Lily

Subject: RE: Net Long Options - 9/18

Tim

I'm getting some information that leads me to think that all the exchange traded option contracts were liquidated by the exchanges on Friday. Here is a spreadsheet that shows \$0 House account balances as of the 19th at a number of exchanges. I am imploring Operations to get us a definitive answer as to whether these contracts have in fact been liquidated and will come back to you immediately upon hearing from them. Thanks. Frank

-----Original Message-----

From: Tim.Stack@barclayscapital.com

[<mailto:Tim.Stack@barclayscapital.com>]

Sent: Sunday, September 21, 2008 12:05 PM

To: Stephen.King@barclayscapital.com; Pearn, Francis J; McInerney, Lily;

Reilly, Gerard; Mincak, Christopher; Jasen.Yang@barclayscapital.com

Cc: Shi, Jerry; Liz.James@barclayscapital.com

Subject: RE: Net Long Options - 9/18

Frank

I have just been speaking to Stephen

Can you please call me on this one at 2124121834.

Thanks

Tim

-----Original Message-----

From: King, Stephen: Markets (NYK)

Sent: Sunday, September 21, 2008 11:26 AM

To: 'Pearn, Francis J'; McInerney, Lily; Reilly, Gerard; Mincak,

Christopher; Yang, Jasen: Markets (NYK)

Cc: Shi, Jerry; Stack, Tim: Futures (NYK)

Subject: RE: Net Long Options - 9/18

Just tried to call.

-----Original Message-----

From: Pearn, Francis J [<mailto:francis.pearn@lehman.com>]

Sent: Sunday, September 21, 2008 11:22 AM

To: King, Stephen: Markets (NYK); McInerney, Lily; Reilly, Gerard;

Mincak, Christopher; Yang, Jasen: Markets (NYK)
Cc: Shi, Jerry; Stack, Tim: Futures (NYK)
Subject: Re: Net Long Options - 9/18

Stephen

I spoke with Gerry Reilly this morning and am reaching out to Lily and Chris to get the most recent exchange traded option info. I am at 516 741 4541 if you want to speak. I will give you an update once Lily and I connect.

Frank

----- Original Message -----

From: Stephen.King@barclayscapital.com
<Stephen.King@barclayscapital.com>
To: McInerney, Lily; Reilly, Gerard; Mincak, Christopher;
Jasen.Yang@barclayscapital.com <Jasen.Yang@barclayscapital.com>
Cc: Pearn, Francis J; Shi, Jerry; Tim.Stack@barclayscapital.com
<Tim.Stack@barclayscapital.com>
Sent: Sun Sep 21 11:18:47 2008
Subject: RE: Net Long Options - 9/18

Lily,

What's I'm trying to be sure about is that we have a clear list of all exchange traded positions (options, futures, etc) as of Friday close. Need this today. Very important. Also, I need to know what the net margin is at the relevant clearing house, and whether that reflects the Friday close marks.

What is you number? Either tim or I will call you.

thx

-----Original Message-----

From: McInerney, Lily [<mailto:lily.mcinerney@lehman.com>]
Sent: Sunday, September 21, 2008 11:10 AM
To: King, Stephen: Markets (NYK); Reilly, Gerard; Mincak, Christopher;
Yang, Jasen: Markets (NYK)
Cc: Pearn, Francis J; Shi, Jerry
Subject: RE: Net Long Options - 9/18

Only equity exchange traded options as of 9/18 were included.

-----Original Message-----

From: Stephen.King@barclayscapital.com
[\[mailto:Stephen.King@barclayscapital.com\]](mailto:Stephen.King@barclayscapital.com)
Sent: Sunday, September 21, 2008 9:12 AM
To: Reilly, Gerard; Mincak, Christopher; Jasen.Yang@barclayscapital.com
Cc: Pearn, Francis J; McInerney, Lily; Shi, Jerry
Subject: RE: Net Long Options - 9/18

Don't forget we only want the exchange traded options, not the etc.

-----Original Message-----

From: Reilly, Gerard [<mailto:greilly@lehman.com>]
Sent: Sunday, September 21, 2008 9:11 AM
To: Mincak, Christopher; Yang, Jasen: Markets (NYK); King, Stephen: Markets (NYK)
Cc: Pearn, Francis J; McInerney, Lily; Shi, Jerry
Subject: RE: Net Long Options - 9/18

Chris

Does this include all equity exchange traded options?

-----Original Message-----

From: Mincak, Christopher
Sent: Friday, September 19, 2008 5:41 PM
To: 'Jasen.Yang@barclayscapital.com'; Stephen.King@barclayscapital.com
Cc: Pearn, Francis J; McInerney, Lily; Shi, Jerry; Reilly, Gerard
Subject: RE: Net Long Options - 9/18

I've included short options, longs/shorts as of yesterday's close, 9/18.

-----Original Message-----

From: Jasen.Yang@barclayscapital.com
[<mailto:Jasen.Yang@barclayscapital.com>]
Sent: Friday, September 19, 2008 5:23 PM
To: Mincak, Christopher; Stephen.King@barclayscapital.com
Cc: Pearn, Francis J; McInerney, Lily; Shi, Jerry; Reilly, Gerard
Subject: RE: Net Long Options - 9/18

is there a short options book as well?

these are current as of yesterday's close?

thanks,

jasen

-----Original Message-----

From: Mincak, Christopher [<mailto:christopher.mincak@lehman.com>]
Sent: Friday, September 19, 2008 4:45 PM
To: King, Stephen: Markets (NYK); Yang, Jasen: Markets (NYK)
Cc: Pearn, Francis J; McInerney, Lily; Shi, Jerry; Reilly, Gerard
Subject: Net Long Options - 9/18

Attached are the options. Awaiting the risk report from Risk.

Chris

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BCI-EX-(S)-00188233

NET PAY/COLLECT TOTALS BY CATEGORY

CMO:
CLEARING MEMBER:

LEHMAN BROTHERS INC.
OCC 00074

SETTLEMENT TIER ACCOUNT:
OCC 00074 C

PAY/COLLECT TYPE	AMOUNT	PAY/COL
INDEX CASH DIFFERENCE	13,469,519.00	COL
EQUITY CASH FIXED	7.56	COL
INDEX CASH FIXED	70,000.00	COL
EQUITY POST TRADE PREMIUM	3,237,702.80	PAY
INDEX POST TRADE PREMIUM	641,289.99	PAY
EQUITY TRADE PREMIUM	33,445.00	COL
NET PAY/COLLECT	9,693,978.77	COL

BCI-EX-(S)-00188235

NET PAY/COLLECT TOTALS BY CATEGORY

CMO:
CLEARING MEMBER:

LEHMAN BROTHERS INC.
OCC 00074

SETTLEMENT TIER ACCOUNT:
OCC 00074 F

PAY/COLLECT TYPE	AMOUNT	PAY/COL
INDEX CASH DIFFERENCE	353,810,801.00	COL
INDEX CASH FIXED	480,000.00	COL
STOCK LOAN MARK TO MARKET	4,614,900.00	COL
NET PAY/COLLECT	358,905,701.00	COL

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074

TIER ACCOUNT: OCC 00074 M
SETTLEMENT TIER ACCOUNT: OCC 00074 M

ACCOUNT SUMMARY PRIOR TO CASH CONVERSION

COLLATERAL TYPE (ALL IN USD)

CASH:	
USD:	255,919,157.59
FOREIGN:	0.00
CASH TOTAL:	255,919,157.59
GOVERNMENT (GS & GE) TOTAL:	78,415,351.16
LETTERS OF CREDIT TOTAL:	211,550,000.00
MONEY MARKET FUNDS TOTAL:	0.00
VALUED SECURITIES TOTAL:	0.00

TOTAL COLLATERAL VALUE (IN USD):	545,884,508.75	
TOTAL REQUIREMENT:	0.00	
MARGIN CREDIT:	0.00	
ROLLED-UP MARGIN DEFICIT:	379,138,758.00	
EXCESS/DEFICIT:	166,745,750.75	EXC

NET PAY/COLLECT AND CASH CONVERSION ACTIVITY

NET PAY/COLLECT:	3,235,583.00	PAY
CASH CONVERSION		
CASH GAINED FROM CONVERSION:	0.00	
CASH USED FOR CONVERSION:	3,235,583.00	
DEFICIT:	0.00	
NET SETTLEMENT:	0.00	

=====

ACCOUNT SUMMARY AFTER CASH CONVERSION

COLLATERAL TYPE (ALL IN USD)

CASH:	
USD:	252,683,574.59
FOREIGN:	0.00
CASH TOTAL:	252,683,574.59
GOVERNMENT (GS & GE) TOTAL:	78,415,351.16
LETTERS OF CREDIT TOTAL:	211,550,000.00
MONEY MARKET FUNDS TOTAL:	0.00
VALUED SECURITIES TOTAL:	0.00

TOTAL COLLATERAL VALUE (IN USD):	542,648,925.75	
TOTAL REQUIREMENT:	0.00	
MARGIN CREDIT:	0.00	
ROLLED-UP MARGIN DEFICIT:	379,138,758.00	
EXCESS/DEFICIT:	163,510,167.75	EXC

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*****CONTINUED ON NEXT PAGE*****

NET PAY/COLLECT TOTALS BY CATEGORY

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074
SETTLEMENT TIER ACCOUNT: OCC 00074 M

PAY/COLLECT TYPE	AMOUNT	PAY/COL
INDEX CASH DIFFERENCE	3,235,583.00	PAY
NET PAY/COLLECT	3,235,583.00	PAY

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*****CONTINUED ON NEXT PAGE*****

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074

TIER ACCOUNT: OCC 00074 M P
SETTLEMENT TIER ACCOUNT: OCC 00074 M

MARGIN ACCOUNT DETAIL

COLLATERAL TYPE (ALL IN USD)		
GOVERNMENT (GS & GE) TOTAL:	0.00	
LETTERS OF CREDIT TOTAL:	0.00	
MONEY MARKET FUNDS TOTAL:	0.00	
VALUED SECURITIES TOTAL:	0.00	
TOTAL COLLATERAL VALUE (IN USD):		
	0.00	
TOTAL REQUIREMENT:		
	379,138,758.00	
MARGIN CREDIT:		
	0.00	
ROLLED-UP MARGIN DEFICIT:		
	0.00	
EXCESS/DEFICIT:		
	379,138,758.00	DEF

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074

TIER ACCOUNT: OCC 00074 Z X
SETTLEMENT TIER ACCOUNT: OCC 00074 Z X

CLEARING FUND ACCOUNT DETAIL

COLLATERAL TYPE (ALL IN USD)			
CASH:			
USD:		0.00	
CASH TOTAL:		0.00	
GOVERNMENT (GS) TOTAL:	171,121,642.25		
TOTAL COLLATERAL VALUE (IN USD): 171,121,642.25			
TOTAL REQUIREMENT:	170,993,187.75		
EXCESS/DEFICIT:	128,454.50	EXC	

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NET PAY/COLLECT TOTALS BY CATEGORY

CMO:	LEHMAN BROTHERS INC.
CLEARING MEMBER:	OCC 00084
SETTLEMENT TIER ACCOUNT:	OCC 00084 C

PAY/COLLECT TYPE	AMOUNT	PAY/COL
INDEX FUTURES MARK TO MARKET	16,180.00	COL
NET PAY/COLLECT	16,180.00	COL

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*****CONTINUED ON NEXT PAGE*****

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00084

TIER ACCOUNT: OCC 00084 F
SETTLEMENT TIER ACCOUNT: OCC 00084 F

ACCOUNT SUMMARY PRIOR TO CASH CONVERSION			
COLLATERAL TYPE (ALL IN USD)			
CASH:			
USD:	46,406,394.00		
FOREIGN:	0.00		
CASH TOTAL:	46,406,394.00		
GOVERNMENT (GS & GE) TOTAL:	0.00		
LETTERS OF CREDIT TOTAL:	39,350,000.00		
MONEY MARKET FUNDS TOTAL:	0.00		
VALUED SECURITIES TOTAL:	0.00		
<hr/>			
TOTAL COLLATERAL VALUE (IN USD):	85,756,394.00		
<hr/>			
TOTAL REQUIREMENT:	57,727,824.00		
<hr/>			
MARGIN CREDIT:	0.00		
<hr/>			
ROLLED-UP MARGIN DEFICIT:	0.00		
<hr/>			
EXCESS/DEFICIT:	28,028,570.00	EXC	

NET PAY/COLLECT AND CASH CONVERSION ACTIVITY			
<hr/>			
NET PAY/COLLECT:	9,173,290.00	COL	
CASH CONVERSION			
CASH GAINED FROM CONVERSION:	0.00		
CASH USED FOR CONVERSION:	0.00		
DEFICIT:	0.00		
NET SETTLEMENT:	9,173,290.00	COL	
=====			

ACCOUNT SUMMARY AFTER CASH CONVERSION			
COLLATERAL TYPE (ALL IN USD)			
CASH:			
USD:	46,406,394.00		
FOREIGN:	0.00		
CASH TOTAL:	46,406,394.00		
GOVERNMENT (GS & GE) TOTAL:	0.00		
LETTERS OF CREDIT TOTAL:	39,350,000.00		
MONEY MARKET FUNDS TOTAL:	0.00		
VALUED SECURITIES TOTAL:	0.00		
<hr/>			
TOTAL COLLATERAL VALUE (IN USD):	85,756,394.00		
<hr/>			
TOTAL REQUIREMENT:	57,727,824.00		
<hr/>			
MARGIN CREDIT:	0.00		
<hr/>			
ROLLED-UP MARGIN DEFICIT:	0.00		
<hr/>			
EXCESS/DEFICIT:	28,028,570.00	EXC	

NET PAY/COLLECT TOTALS BY CATEGORY

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00084
SETTLEMENT TIER ACCOUNT: OCC 00084 F

PAY/COLLECT TYPE	AMOUNT	PAY/COL
EQUITY FUTURES MARK TO MARKET	798,640.00	COL
INDEX FUTURES MARK TO MARKET	8,374,650.00	COL
NET PAY/COLLECT	9,173,290.00	COL

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NET PAY/COLLECT TOTALS BY CATEGORY

CMO:
CLEARING MEMBER:

LEHMAN BROTHERS INC.
OCC 00084

SETTLEMENT TIER ACCOUNT:
OCC 00084 M

PAY/COLLECT TYPE	AMOUNT	PAY/COL
NET PAY/COLLECT	0.00	

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00084

TIER ACCOUNT: OCC 00084 M P
SETTLEMENT TIER ACCOUNT: OCC 00084 M

MARGIN ACCOUNT DETAIL

COLLATERAL TYPE (ALL IN USD)	
GOVERNMENT (GS & GE) TOTAL:	0.00
LETTERS OF CREDIT TOTAL:	0.00
MONEY MARKET FUNDS TOTAL:	0.00
VALUED SECURITIES TOTAL:	0.00

TOTAL COLLATERAL VALUE (IN USD):	0.00
----------------------------------	------

TOTAL REQUIREMENT: 0.00

MARGIN CREDIT: 0.00

ROLLED-UP MARGIN DEFICIT: 0.00

EXCESS/DEFICIT: 0.00

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****END OF DATA****

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CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00273

TIER ACCOUNT: OCC 00273 C
SETTLEMENT TIER ACCOUNT: OCC 00273 C

ACCOUNT SUMMARY PRIOR TO CASH CONVERSION

COLLATERAL TYPE (ALL IN USD)		
CASH:		
USD:	4,880,701.00	
FOREIGN:	0.00	
CASH TOTAL:	4,880,701.00	
GOVERNMENT (GS & GE) TOTAL:	0.00	
LETTERS OF CREDIT TOTAL:	0.00	
MONEY MARKET FUNDS TOTAL:	0.00	
VALUED SECURITIES TOTAL:	0.00	
<hr/>		
TOTAL COLLATERAL VALUE (IN USD):	4,880,701.00	
<hr/>		
TOTAL REQUIREMENT:	770,881.00	
<hr/>		
MARGIN CREDIT:	0.00	
<hr/>		
ROLLED-UP MARGIN DEFICIT:	0.00	
<hr/>		
EXCESS/DEFICIT:	4,109,820.00	EXC

NET PAY/COLLECT AND CASH CONVERSION ACTIVITY

NET PAY/COLLECT:	0.00
CASH CONVERSION	
CASH GAINED FROM CONVERSION:	0.00
CASH USED FOR CONVERSION:	0.00
DEFICIT:	0.00
NET SETTLEMENT:	0.00
=====	

ACCOUNT SUMMARY AFTER CASH CONVERSION

COLLATERAL TYPE (ALL IN USD)		
CASH:		
USD:	4,880,701.00	
FOREIGN:	0.00	
CASH TOTAL:	4,880,701.00	
GOVERNMENT (GS & GE) TOTAL:	0.00	
LETTERS OF CREDIT TOTAL:	0.00	
MONEY MARKET FUNDS TOTAL:	0.00	
VALUED SECURITIES TOTAL:	0.00	
<hr/>		
TOTAL COLLATERAL VALUE (IN USD):	4,880,701.00	
<hr/>		
TOTAL REQUIREMENT:	770,881.00	
<hr/>		
MARGIN CREDIT:	0.00	
<hr/>		
ROLLED-UP MARGIN DEFICIT:	0.00	
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EXCESS/DEFICIT:	4,109,820.00	EXC

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NET PAY/COLLECT TOTALS BY CATEGORY

CMO:
CLEARING MEMBER:

LEHMAN BROTHERS INC.
OCC 00273

SETTLEMENT TIER ACCOUNT:
OCC 00273 C

PAY/COLLECT TYPE	AMOUNT	PAY/COL
NET PAY/COLLECT	0.00	

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NET PAY/COLLECT TOTALS BY CATEGORY

CMO:
CLEARING MEMBER:

LEHMAN BROTHERS INC.
OCC 00273

SETTLEMENT TIER ACCOUNT:
OCC 00273 F

PAY/COLLECT TYPE	AMOUNT	PAY/COL
NET PAY/COLLECT	0.00	

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00273

TIER ACCOUNT: OCC 00273 M
SETTLEMENT TIER ACCOUNT: OCC 00273 M

ACCOUNT SUMMARY PRIOR TO CASH CONVERSION

COLLATERAL TYPE (ALL IN USD)	
CASH:	
USD:	0.00
FOREIGN:	0.00
CASH TOTAL:	0.00
GOVERNMENT (GS & GE) TOTAL:	0.00
LETTERS OF CREDIT TOTAL:	0.00
MONEY MARKET FUNDS TOTAL:	0.00
VALUED SECURITIES TOTAL:	0.00
TOTAL COLLATERAL VALUE (IN USD):	
	0.00
TOTAL REQUIREMENT:	0.00
MARGIN CREDIT:	0.00
ROLLED-UP MARGIN DEFICIT:	0.00
EXCESS/DEFICIT:	0.00

NET PAY/COLLECT AND CASH CONVERSION ACTIVITY

NET PAY/COLLECT:	0.00
CASH CONVERSION	
CASH GAINED FROM CONVERSION:	0.00
CASH USED FOR CONVERSION:	0.00
DEFICIT:	0.00
NET SETTLEMENT:	0.00
=====	

ACCOUNT SUMMARY AFTER CASH CONVERSION

COLLATERAL TYPE (ALL IN USD)	
CASH:	
USD:	0.00
FOREIGN:	0.00
CASH TOTAL:	0.00
GOVERNMENT (GS & GE) TOTAL:	0.00
LETTERS OF CREDIT TOTAL:	0.00
MONEY MARKET FUNDS TOTAL:	0.00
VALUED SECURITIES TOTAL:	0.00
TOTAL COLLATERAL VALUE (IN USD):	
	0.00
TOTAL REQUIREMENT:	0.00
MARGIN CREDIT:	0.00
ROLLED-UP MARGIN DEFICIT:	0.00
EXCESS/DEFICIT:	0.00

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NET PAY/COLLECT TOTALS BY CATEGORY

CMO:
CLEARING MEMBER:

LEHMAN BROTHERS INC.
OCC 00273

SETTLEMENT TIER ACCOUNT:
OCC 00273 M

PAY/COLLECT TYPE	AMOUNT	PAY/COL
NET PAY/COLLECT	0.00	

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00273

TIER ACCOUNT: OCC 00273 M N
SETTLEMENT TIER ACCOUNT: OCC 00273 M

MARGIN ACCOUNT DETAIL

COLLATERAL TYPE (ALL IN USD)	
GOVERNMENT (GS & GE) TOTAL:	0.00
LETTERS OF CREDIT TOTAL:	0.00
MONEY MARKET FUNDS TOTAL:	0.00
VALUED SECURITIES TOTAL:	0.00

TOTAL COLLATERAL VALUE (IN USD):	0.00
----------------------------------	------

TOTAL REQUIREMENT: 0.00

MARGIN CREDIT: 0.00

ROLLED-UP MARGIN DEFICIT: 0.00

EXCESS/DEFICIT: 0.00

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****END OF DATA****

CMO: LEHMAN BROTHERS INC.

COLLATERAL TYPE: LETTERS OF CREDIT

ASSET MANAGER	LC#	RSTR	ISSUE DATE	EXP DATE	FACE VALUE	FV CURN	MARKET VALUE	COLLATERAL VALUE
ANZBUS33XXX	S04743/8200		09/01/2008	03/01/2009	0.00	USD	0.00	0.00
ANZBUS33XXX	S04744/8200		09/01/2008	03/01/2009	0.00	USD	0.00	0.00
BNPAUS3NXXX	91903950 CG CM# AT ID		08/28/2008	03/01/2009	800,000.00	USD	800,000.00	800,000.00
	OCC 00084 C				800,000.00		800,000.00	800,000.00
BNPAUS3NXXX	91903955 CG CM# AT ID		08/28/2008	03/01/2009	251,400,000.00	USD	251,400,000.00	251,400,000.00
	OCC 00074 F				500,000.00		500,000.00	500,000.00
	OCC 00074 M				211,550,000.00		211,550,000.00	211,550,000.00
	OCC 00084 F				39,350,000.00		39,350,000.00	39,350,000.00
BOTKUS33XXX	S015193		09/01/2008	03/01/2009	0.00	USD	0.00	0.00
HYVEUS33XXX	SB237405		09/03/2008	03/01/2009	0.00	USD	0.00	0.00
LOYDUS33NYB	NYSB2008730		09/01/2008	03/01/2009	0.00	USD	0.00	0.00
USD TOTAL					252,200,000.00		252,200,000.00	252,200,000.00
GRAND TOTAL					252,200,000.00		252,200,000.00	252,200,000.00

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CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074

COLLATERAL TYPE: CASH

AT	ID	ASSET MANAGER	SEG CASH	FACE VALUE	FV CURN	MARKET VALUE	COLLATERAL VALUE
C		BOFAUS6SXXX		162,681,324.65	USD	162,681,324.65	162,681,324.65
F		BOFAUS6SXXX		578,689,010.23	USD	578,689,010.23	578,689,010.23
M		BOFAUS6SXXX		255,919,157.59	USD	255,919,157.59	255,919,157.59
USD TOTAL				997,289,492.47		997,289,492.47	997,289,492.47
CM TOTAL				997,289,492.47		997,289,492.47	997,289,492.47
=====							

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074

COLLATERAL TYPE: GOVERNMENTS (GS & GE)

ASSET MANAGER	PLGR ACCT	CUSIP	GOV CT	COUPON TYPE	RATE	MAT DATE	SUB TYPE	FACE VALUE	FV CURN	MARKET VALUE	COLLATERAL VALUE
AT: C ID:											
CHASUS33XXX		912810FD5	GS	BOND	3.625	04/15/2028	PR	59,175,000	USD	96,873,025.50	92,029,374.23
CHASUS33XXX		912810FR4	GS	BOND	2.375	01/15/2025	PR	175,000,000	USD	207,135,250.00	196,778,487.50
CHASUS33XXX		912810FS2	GS	BOND	2.000	01/15/2026	PR	55,560,000	USD	58,872,487.20	55,928,862.84
AT: F ID:											
CHASUS33XXX		912810FH6	GS	BOND	3.875	04/15/2029	PR	86,585,000	USD	144,880,082.95	137,636,078.80
CHASUS33XXX		912810FR4	GS	BOND	2.375	01/15/2025	PR	119,445,000	USD	141,378,685.35	134,309,751.08
CHASUS33XXX		912810FR4	GS	BOND	2.375	01/15/2025	PR	26,260,000	USD	31,082,123.80	29,528,017.61
CHASUS33XXX		912810PV4	GS	BOND	1.750	01/15/2028	PR	34,000,000	USD	32,720,580.00	31,084,551.00
AT: M ID:											
CHASUS33XXX		912810PV4	GS	BOND	1.750	01/15/2028	PR	85,770,000	USD	82,542,474.90	78,415,351.16
AT: Z ID: X											
CHASUS33XXX		912795G88	GS	BILL		10/02/2008	PR	19,000,000	USD	18,996,200.00	18,901,219.00
CHASUS33XXX		912795H95	GS	BILL		12/04/2008	PR	42,000,000	USD	41,869,800.00	41,660,451.00
CHASUS33XXX		912795J28	GS	BILL		12/11/2008	PR	41,000,000	USD	40,901,600.00	40,697,092.00
CHASUS33XXX		912795J36	GS	BILL		12/18/2008	PR	14,500,000	USD	14,466,650.00	14,394,316.75
CHASUS33XXX		912795J44	GS	BILL		12/26/2008	PR	25,000,000	USD	24,897,500.00	24,773,012.50
CHASUS33XXX		912795J93	GS	BILL		01/29/2009	PR	28,000,000	USD	27,868,400.00	27,729,058.00
CHASUS33XXX		912795K59	GS	BILL		02/26/2009	PR	3,000,000	USD	2,981,400.00	2,966,493.00
GS TOTAL								814,295,000		967,466,259.70	926,832,116.47
GE TOTAL								0		0.00	0.00
USD TOTAL								814,295,000		967,466,259.70	926,832,116.47
CM TOTAL											
								814,295,000		967,466,259.70	926,832,116.47
=====											

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074

COLLATERAL TYPE: MONEY MARKET FUNDS

AT	ID	ASSET MANAGER	PLGR ACCT	CUSIP	SEC SYMB	SEC CURN	SHARE QTY	MARKET VALUE	COLLATERAL VALUE
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NO DATA

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074

COLLATERAL TYPE: VALUED SECURITIES

AT	ID	ASSET MANAGER	PLGR ACCT	CUSIP	RSTR	SEC SYMB	SEC CURN	CLASS	EQ TYPE	QUANTITY	MARKET VALUE
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NO DATA

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CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074

COLLATERAL TYPE: SPECIFIC DEPOSITS

SERIES												SHARE QTY
AT	ID	ASSET MANAGER	PLGR ACCT	CUSIP	RSTR	SEC SYMB	SEC CURN	OPT SYMB	C SER/CTR P DATE	STRIKE	EXP DATE	MARKET VALUE
C		DTCCUS33XXX	2669	G7945J104		STX	USD	STX	C 01/17/2009	17 4/8	01/17/2009	28,100
C		DTCCUS33XXX	2669	G7945J104		STX	USD	STX	C 12/20/2008	22 4/8	12/20/2008	361,085.00
C		DTCCUS33XXX	2669	G7945J104		STX	USD	STX	C 01/17/2009	25	01/17/2009	50,500
C		DTCCUS33XXX	2146	001765106		AMR	USD	AMR	C 09/20/2008	10	09/20/2008	648,925.00
C		DTCCUS33XXX	2146	001765106		AMR	USD	AMR	C 11/22/2008	15	11/22/2008	50,500
C		DTCCUS33XXX	2669	002896207		ANF	USD	ANF	C 11/22/2008	60	11/22/2008	648,925.00
C		DTCCUS33XXX	2316	018490102		AGN	USD	AGN	C 09/20/2008	60	09/20/2008	80,000
C		DTCCUS33XXX	2170	025537101		AEP	USD	AEP	C 01/17/2009	45	01/17/2009	1,035,200.00
C		DTCCUS33XXX	2669	026874107		AIG	USD	AIG	C 11/22/2008	39	11/22/2008	80,000
C		DTCCUS33XXX	2669	031162100		AMGN	USD	AMQ	C 10/18/2008	50	10/18/2008	1,035,200.00
C		DTCCUS33XXX	2669	031162100		AMGN	USD	YAA	C 10/18/2008	55	10/18/2008	13,200
C		DTCCUS33XXX	2669	031162100		AMGN	USD	YAA	C 09/20/2008	65	09/20/2008	582,120.00
C		DTCCUS33XXX	2450	031162100		AMGN	USD	YAA	C 01/17/2009	75	01/17/2009	3,000
C		DTCCUS33XXX	2139	032511107		APC	USD	APC	C 09/20/2008	65	09/20/2008	176,040.00
C		DTCCUS33XXX	2139	032511107		APC	USD	APC	C 01/17/2009	70	01/17/2009	4,100
C		DTCCUS33XXX	2139	032511107		APC	USD	APC	C 01/17/2009	80	01/17/2009	156,538.00
C		DTCCUS33XXX	2316	037411105		APA	USD	APA	C 01/17/2009	100	01/17/2009	34,800
C		DTCCUS33XXX	2316	037411105		APA	USD	APA	C 01/17/2009	140	01/17/2009	133,980.00
												2,200
												131,934.00
												24,900
												1,493,253.00
												3,304,347.00
												102,500
												6,146,925.00
												45,000
												2,600,100.00
												22,500
												1,300,050.00
												10,900
												629,802.00
												500
												60,575.00
												1,500
												181,725.00

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CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074

COLLATERAL TYPE: SPECIFIC DEPOSITS

SERIES												SHARE QTY
AT	ID	ASSET MANAGER	PLGR ACCT	CUSIP	RSTR	SEC SYMB	SEC CURN	OPT SYMB	C SER/CTR P DATE	STRIKE	EXP DATE	MARKET VALUE
C		DTCCUS33XXX	0992	143658300		CCL	USD	CCL	C 10/18/2008	40	10/18/2008	300
C		DTCCUS33XXX	2316	166764100		CVX	USD	CVX	C 12/20/2008	100	12/20/2008	11,928.00
C		DTCCUS33XXX	2316	166764100		CVX	USD	CVX	C 09/20/2008	100	09/20/2008	1,400
C		DTCCUS33XXX	2316	166764100		CVX	USD	CVX	C 09/20/2008	115	09/20/2008	122,920.00
C		DTCCUS33XXX	2316	166764100		CVX	USD	CVX	C 09/20/2008	85	09/20/2008	1,000
C		DTCCUS33XXX	2139	166764100		CVX	USD	CVX	C 01/17/2009	90	01/17/2009	87,800.00
C		DTCCUS33XXX	2316	166764100		CVX	USD	CVX	C 09/20/2008	95	09/20/2008	400
C		DTCCUS33XXX	2316	166764100		CVX	USD	CVX	C 01/17/2009	95	01/17/2009	35,120.00
C		DTCCUS33XXX	2669	171046105		CBK	USD	CBK	C 12/20/2008	10	12/20/2008	500
C		DTCCUS33XXX	2669	171046105		CBK	USD	CBK	C 09/20/2008	10	09/20/2008	43,900.00
C		DTCCUS33XXX	2669	171046105		CBK	USD	CBK	C 12/20/2008	12 4/8	12/20/2008	2,000
C		DTCCUS33XXX	2316	17275R102		CSCO	USD	CWY	C 01/17/2009	30	01/17/2009	175,600.00
C		DTCCUS33XXX	2139	17275R102		CSCO	USD	CWY	C 01/17/2009	30	01/17/2009	1,700
C		DTCCUS33XXX	2669	172967101		C	USD	C	C 09/20/2008	22 4/8	09/20/2008	149,260.00
C		DTCCUS33XXX	2316	172967101		C	USD	C	C 09/20/2008	22 4/8	09/20/2008	1,400
C		DTCCUS33XXX	2669	172967101		C	USD	C	C 09/20/2008	25	09/20/2008	122,920.00
C		DTCCUS33XXX	2669	172967101		C	USD	C	C 01/17/2009	25	01/17/2009	34,900
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	400,303.00
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	52,800
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	605,616.00
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	114,600
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	1,314,462.00
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	1,000
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	24,290.00
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	1,900
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	46,151.00
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	33,800
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	697,970.00
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	4,200
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	86,730.00
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	1,200
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	24,780.00
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	31,200
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	644,280.00
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	900
C		DTCCUS33XXX	2139	172967101		C	USD	C	C 01/17/2009	35	01/17/2009	18,585.00

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Exhibits F

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CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074

COLLATERAL TYPE: SPECIFIC DEPOSITS

SERIES											SHARE QTY	
AT	ID	ASSET MANAGER	PLGR ACCT	CUSIP	RSTR	SEC SYMB	SEC CURN	OPT SYMB	C SER/CTR P DATE	STRIKE	EXP DATE	MARKET VALUE
C		DTCCUS33XXX	2316	189054109		CLX	USD	CLX	C 01/17/2009	70	01/17/2009	1,000
C		DTCCUS33XXX	2316	191216100		KO	USD	KO	C 01/17/2009	60	01/17/2009	62,820.00
C		DTCCUS33XXX	2316	192446102		CTSH	USD	UPU	C 09/20/2008	32 4/8	09/20/2008	1,000
C		DTCCUS33XXX	2669	20030N101		CMCSA	USD	CCQ	C 01/17/2009	22 4/8	01/17/2009	52,720.00
C		DTCCUS33XXX	2669	20030N101		CMCSA	USD	CCQ	C 04/18/2009	25	04/18/2009	5,200
C		DTCCUS33XXX	2669	20825C104		COP	USD	YRO	C 01/16/2010	110	01/16/2010	138,164.00
C		DTCCUS33XXX	2316	20825C104		COP	USD	COP	C 11/22/2008	90	11/22/2008	92,900
C		DTCCUS33XXX	2316	20825C104		COP	USD	COP	C 09/20/2008	90	09/20/2008	1,923,959.00
C		DTCCUS33XXX	2316	210371100		CEG	USD	CEG	C 09/20/2008	70	09/20/2008	40,800
C		DTCCUS33XXX	2146	210795308		CAL	USD	CAL	C 09/20/2008	15	09/20/2008	844,968.00
C		DTCCUS33XXX	2146	210795308		CAL	USD	CAL	C 09/20/2008	17 4/8	09/20/2008	23,000
C		DTCCUS33XXX	2316	219350105		GLW	USD	GLW	C 02/21/2009	20	02/21/2009	1,801,130.00
C		DTCCUS33XXX	2316	244199105		DE	USD	DE	C 09/20/2008	70	09/20/2008	400
C		DTCCUS33XXX	0997	244199105		DE	USD	DE	C 09/20/2008	80	09/20/2008	31,324.00
C		DTCCUS33XXX	2669	24702R101		DELL	USD	DLY	C 01/17/2009	20	01/17/2009	2,100
C		DTCCUS33XXX	2803	253651103		DBD	USD	DBD	C 09/20/2008	40	09/20/2008	164,451.00
C		DTCCUS33XXX	2669	256746108		DLTR	USD	DQO	C 11/22/2008	35	11/22/2008	1,500
												117,465.00
												1,000
												25,760.00
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SHARE QTY

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CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074
COLLATERAL TYPE: SPECIFIC DEPOSITS

SERIES												SHARE	QTY
AT	ID	ASSET MANAGER	PLGR ACCT	CUSIP	RSTR	SEC SYMB	SEC CURN	OPT SYMB	C SER/CTR P DATE	STRIKE	EXP DATE	MARKET VALUE	
C		DTCCUS33XXX	2669	313586109		FNM	USD	FNM	C 09/20/2008	28	09/20/2008	37,400	
C		DTCCUS33XXX	2669	313586109		FNM	USD	FNM	C 12/20/2008	28	12/20/2008	25,806.00	
C		DTCCUS33XXX	2669	31428X106		FDX	USD	FDX	C 10/18/2008	85	10/18/2008	34,400	
C		DTCCUS33XXX	2319	31428X106		FDX	USD	FDX	C 10/18/2008	85	10/18/2008	23,736.00	
C		DTCCUS33XXX	2669	31428X106		FDX	USD	FDX	C 01/17/2009	90	01/17/2009	11,300	
C		DTCCUS33XXX	2316	354613101		BEN	USD	BEH	C 01/17/2009	130	01/17/2009	1,017,904.00	
C		DTCCUS33XXX	2316	35671D857		FCX	USD	FCX	C 09/20/2008	100	09/20/2008	2,600	
C		DTCCUS33XXX	2316	369604103		GE	USD	GE	C 12/20/2008	32	12/20/2008	234,208.00	
C		DTCCUS33XXX	2316	369604103		GE	USD	GE	C 01/17/2009	32 4/8	01/17/2009	10,200	
C		DTCCUS33XXX	2316	369604103		GE	USD	GE	C 09/20/2008	35	09/20/2008	918,816.00	
C		DTCCUS33XXX	2139	369604103		GE	USD	GE	C 01/17/2009	37 4/8	01/17/2009	600	
C		DTCCUS33XXX	2316	369604103		GE	USD	GE	C 09/20/2008	37 4/8	09/20/2008	64,800.00	
C		DTCCUS33XXX	2316	369604103		GE	USD	GE	C 09/20/2008	39	09/20/2008	800	
C		DTCCUS33XXX	2316	369604103		GE	USD	GE	C 09/20/2008	40	09/20/2008	58,816.00	
C		DTCCUS33XXX	2139	369604103		GE	USD	GE	C 01/17/2009	42 4/8	01/17/2009	12,900	
C		DTCCUS33XXX	2316	37733W105		GSK	USD	GSK	C 11/22/2008	52 4/8	11/22/2008	343,398.00	
C		DTCCUS33XXX	2316	38141G104		GS	USD	GPY	C 09/20/2008	180	09/20/2008	4,000	
C		DTCCUS33XXX	2669	38141G104		GS	USD	GPY	C 01/17/2009	200	01/17/2009	106,480.00	
												3,000	
												79,860.00	
												13,200	
												351,384.00	
												1,000	
												26,620.00	
												1,000	
												26,620.00	
												2,400	
												63,888.00	
												8,000	
												212,960.00	
												5,300	
												235,956.00	
												500	
												64,900.00	
												5,900	
												765,820.00	

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Exhibits F

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CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074

COLLATERAL TYPE: SPECIFIC DEPOSITS

SERIES											SHARE	QTY	
AT	ID	ASSET MANAGER	PLGR ACCT	CUSIP	RSTR	SEC SYMB	SEC CURN	OPT SYMB	C SER/CTR P DATE	STRIKE	EXP DATE	MARKET	VALUE
C		DTCCUS33XXX	2669	38141G104		GS	USD	GPY	C 04/18/2009	200	04/18/2009		4,300
C		DTCCUS33XXX	2669	38141G104		GS	USD	GPY	C 10/18/2008	200	10/18/2008		558,140.00
C		DTCCUS33XXX	2316	38259P508		GOOG	USD	GOP	C 09/20/2008	550	09/20/2008		8,300
C		DTCCUS33XXX	0901	416515104		HIG	USD	HIG	C 09/20/2008	65	09/20/2008		1,077,340.00
C		DTCCUS33XXX	2316	428236103		HPQ	USD	HPQ	C 11/22/2008	50	11/22/2008		400
C		DTCCUS33XXX	2316	436440101		HOLX	USD	QHX	C 01/17/2009	20	01/17/2009		179,660.00
C		DTCCUS33XXX	2316	436440101		HOLX	USD	QHX	C 12/20/2008	22 4/8	12/20/2008		41,300
C		DTCCUS33XXX	2316	436440101		HOLX	USD	QHX	C 01/17/2009	30	01/17/2009		2,608,095.00
C		DTCCUS33XXX	2669	437076102		HD	USD	HD	C 11/22/2008	27 4/8	11/22/2008		2,000
C		DTCCUS33XXX	2316	437076102		HD	USD	HD	C 09/20/2008	27 4/8	09/20/2008		96,520.00
C		DTCCUS33XXX	2316	437076102		HD	USD	HD	C 11/22/2008	30	11/22/2008		3,300
C		DTCCUS33XXX	2316	437076102		HD	USD	HD	C 01/17/2009	32 4/8	01/17/2009		64,878.00
C		DTCCUS33XXX	2316	437076102		HD	USD	WHD	C 01/16/2010	35	01/16/2010		1,000
C		DTCCUS33XXX	2316	438128308		HMC	USD	HMC	C 10/18/2008	35	10/18/2008		17,500
C		DTCCUS33XXX	2316	438516106		HON	USD	HON	C 09/20/2008	65	09/20/2008		344,050.00
C		DTCCUS33XXX	2316	458140100		INTC	USD	INQ	C 10/18/2008	25	10/18/2008		13,200
C		DTCCUS33XXX	2139	458140100		INTC	USD	INQ	C 01/17/2009	30	01/17/2009		361,284.00
C		DTCCUS33XXX	2316	458140100		INTC	USD	WNL	C 01/16/2010	30	01/16/2010		7,000
													191,590.00
													2,500
													68,425.00
													2,000
													54,740.00
													1,000
													27,370.00
													1,800
													58,590.00
													6,500
													294,580.00
													3,000
													57,690.00
													1,300
													24,999.00
													2,000
													38,460.00

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CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074
COLLATERAL TYPE: SPECIFIC DEPOSITS

SERIES											SHARE	QTY	
AT	ID	ASSET MANAGER	PLGR ACCT	CUSIP	RSTR	SEC SYMB	SEC CURN	OPT SYMB	C SER/CTR P DATE	STRIKE	EXP DATE	MARKET	VALUE
C		DTCCUS33XXX	2139	459200101		IBM	USD	IBM	C 01/17/2009	115	01/17/2009		1,000
C		DTCCUS33XXX	2316	459200101		IBM	USD	IBM	C 10/18/2008	140	10/18/2008	118,850.00	1,200
C		DTCCUS33XXX	2669	460146103		IP	USD	IP	C 10/18/2008	32 4/8	10/18/2008	142,620.00	16,100
C		DTCCUS33XXX	2803	46428R107		GSG	USD	GSG	C 09/20/2008	63	09/20/2008	465,612.00	80,000
C		DTCCUS33XXX	2316	464286400		EWZ	USD	EWZ	C 09/20/2008	100	09/20/2008	4,360,000.00	400
C		DTCCUS33XXX	2316	464287168		DVY	USD	DVY	C 09/20/2008	70	09/20/2008	25,320.00	500
C		DTCCUS33XXX	2316	464287234		EEM	USD	EGH	C 09/20/2008	150	09/20/2008	30,500.00	29,100
C		DTCCUS33XXX	2316	464287556		IBB	USD	IBB	C 09/20/2008	85	09/20/2008	1,119,477.00	100
C		DTCCUS33XXX	2669	464287564		ICF	USD	ICV	C 11/22/2008	74	11/22/2008	8,400.00	300
C		DTCCUS33XXX	2669	464287564		ICF	USD	ICV	C 11/22/2008	90	11/22/2008	24,990.03	6,100
C		DTCCUS33XXX	2316	46625H100		JPM	USD	JPM	C 09/20/2008	40	09/20/2008	508,130.62	4,000
C		DTCCUS33XXX	2669	46625H100		JPM	USD	JPM	C 12/20/2008	40	12/20/2008	188,200.00	38,200
C		DTCCUS33XXX	2669	46625H100		JPM	USD	JPM	C 12/20/2008	42 4/8	12/20/2008	1,797,310.00	21,800
C		DTCCUS33XXX	0901	46625H100		JPM	USD	JPM	C 10/18/2008	45	10/18/2008	1,025,690.00	12,300
C		DTCCUS33XXX	2669	46625H100		JPM	USD	JPM	C 12/20/2008	47 4/8	12/20/2008	578,715.00	22,500
C		DTCCUS33XXX	2139	478160104		JNJ	USD	JNJ	C 01/17/2009	70	01/17/2009	1,058,625.00	1,000
C		DTCCUS33XXX	2139	478160104		JNJ	USD	JNJ	C 01/17/2009	75	01/17/2009	69,990.00	40,700
C		DTCCUS33XXX	2316	48242W106		KBR	USD	KBR	C 09/20/2008	25	09/20/2008	2,848,593.00	4,000
												77,760.00	

ENP0450 *****CONTINUED ON NEXT PAGE*****

CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074
COLLATERAL TYPE: SPECIFIC DEPOSITS

SERIES												SHARE QTY
AT	ID	ASSET MANAGER	PLGR ACCT	CUSIP	RSTR	SEC SYMB	SEC CURN	OPT SYMB	C SER/CTR P DATE	STRIKE	EXP DATE	MARKET VALUE
C		DTCCUS33XXX	0997	485170302		KSU	USD	KSU	C 09/20/2008	60	09/20/2008	200,000
C		DTCCUS33XXX	2669	500255104		KSS	USD	KSS	C 10/18/2008	50	10/18/2008	10,234,000.00
C		DTCCUS33XXX	2669	500255104		KSS	USD	KSS	C 01/17/2009	50	01/17/2009	54,800
C		DTCCUS33XXX	2803	524908100		LEHMQ	USD	NJS	C 10/18/2008	12 4/8	10/18/2008	2,738,904.00
C		DTCCUS33XXX	2803	524908100		LEHMQ	USD	NJS	C 01/17/2009	12 4/8	01/17/2009	56,600
C		DTCCUS33XXX	2669	524908100		LEHMQ	USD	LYH	C 09/20/2008	21	09/20/2008	2,828,868.00
C		DTCCUS33XXX	2669	524908100		LEHMQ	USD	LYH	C 01/17/2009	27	01/17/2009	500,000
C		DTCCUS33XXX	2669	532457108		LLY	USD	LLY	C 10/18/2008	50	10/18/2008	107,550.00
C		DTCCUS33XXX	2316	539830109		LMT	USD	LMT	C 09/20/2008	120	09/20/2008	500,000
C		DTCCUS33XXX	2669	548661107		LOW	USD	LOW	C 01/17/2009	27 4/8	01/17/2009	107,550.00
C		DTCCUS33XXX	2316	55616P104		M	USD	M	C 01/17/2009	25	01/17/2009	47,600
C		DTCCUS33XXX	2669	565849106		MRO	USD	MRO	C 10/18/2008	55	10/18/2008	10,238.76
C		DTCCUS33XXX	2316	565849106		MRO	USD	MRO	C 01/17/2009	55	01/17/2009	31,700
C		DTCCUS33XXX	2316	576206106		MEE	USD	MEE	C 09/20/2008	70	09/20/2008	6,818.67
C		DTCCUS33XXX	2316	579064106		MFE	USD	MFE	C 09/20/2008	40	09/20/2008	17,900
C		DTCCUS33XXX	0901	594918104		MSFT	USD	MSQ	C 10/18/2008	29	10/18/2008	835,751.00
C		DTCCUS33XXX	2316	594918104		MSFT	USD	MSQ	C 10/18/2008	29	10/18/2008	200
C		DTCCUS33XXX	2316	594918104		MSFT	USD	MSQ	C 01/17/2009	30	01/17/2009	22,176.00
												92,200
												2,353,866.00
												3,400
												67,864.00
												18,300
												793,122.00
												1,200
												52,008.00
												100
												4,249.00
												40,100
												1,496,131.00
												65,000
												1,635,400.00
												1,000
												25,160.00
												500
												12,580.00

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CMO: LEHMAN BROTHERS INC.
CLEARING MEMBER: OCC 00074
COLLATERAL TYPE: SPECIFIC DEPOSITS

SERIES											SHARE	QTY	
AT	ID	ASSET MANAGER	PLGR ACCT	CUSIP	RSTR	SEC SYMB	SEC CURN	OPT SYMB	C SER/CTR P DATE	STRIKE	EXP DATE	MARKET	VALUE
C		DTCCUS33XXX	2139	594918104		MSFT	USD	MSQ	C 01/17/2009	40	01/17/2009		9,000
C		DTCCUS33XXX	2669	595112103		MU	USD	MU	C 01/17/2009	5	01/17/2009		226,440.00
C		DTCCUS33XXX	2316	61166W101		MON	USD	MFP	C 01/17/2009	140	01/17/2009		105,800
C		DTCCUS33XXX	2316	617446448		MS	USD	MS	C 09/20/2008	43	09/20/2008		512,072.00
C		DTCCUS33XXX	2669	617446448		MS	USD	MFZ	C 01/17/2009	50	01/17/2009		14,100
C		DTCCUS33XXX	2139	635405103		NCC	USD	NCC	C 01/17/2009	20	01/17/2009		1,669,581.00
C		DTCCUS33XXX	2316	635405103		NCC	USD	NCC	C 09/20/2008	5	09/20/2008		4,600
C		DTCCUS33XXX	2450	651290108		NFX	USD	NFX	C 09/20/2008	65	09/20/2008		125,166.00
C		DTCCUS33XXX	2669	654902204		NOK	USD	NOK	C 10/18/2008	30	10/18/2008		27,400
C		DTCCUS33XXX	2450	655664100		JWN	USD	JWN	C 01/17/2009	40	01/17/2009		745,554.00
C		DTCCUS33XXX	2669	655844108		NSC	USD	NSC	C 09/20/2008	60	09/20/2008		3,000
C		DTCCUS33XXX	2669	655844108		NSC	USD	NSC	C 12/20/2008	70	12/20/2008		16,830.00
C		DTCCUS33XXX	2316	665859104		NTRS	USD	NRQ	C 10/18/2008	85	10/18/2008		100,000
C		DTCCUS33XXX	2146	667280408		NWA	USD	NWA	C 09/20/2008	10	09/20/2008		561,000.00
C		DTCCUS33XXX	2146	667280408		NWA	USD	NWA	C 09/20/2008	12 4/8	09/20/2008		91,300
C		DTCCUS33XXX	2316	674599105		OXY	USD	OXY	C 09/20/2008	80	09/20/2008		3,704,041.00
C		DTCCUS33XXX	2316	68389X105		ORCL	USD	ORQ	C 09/20/2008	22 4/8	09/20/2008		35,900
C		DTCCUS33XXX	2316	704549104		BTU	USD	BTU	C 01/17/2009	65	01/17/2009		767,183.00
C		DTCCUS33XXX											95,000
C		DTCCUS33XXX											3,223,350.00
C		DTCCUS33XXX											10,000
C		DTCCUS33XXX											703,600.00
C		DTCCUS33XXX											11,900
C		DTCCUS33XXX											837,284.00
C		DTCCUS33XXX											600
C		DTCCUS33XXX											45,930.00
C		DTCCUS33XXX											35,000
C		DTCCUS33XXX											403,550.00
C		DTCCUS33XXX											35,000
C		DTCCUS33XXX											403,550.00
C		DTCCUS33XXX											2,000
C		DTCCUS33XXX											161,000.00
C		DTCCUS33XXX											7,000
C		DTCCUS33XXX											140,490.00
C		DTCCUS33XXX											31,800
C		DTCCUS33XXX											1,821,822.00

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